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Further Correspondence respecting the Affairs of Samoa.

[In continuation of "Samoa No. 1 (1890):" C.—5907.]

No. 1.

The Marquis of Salisbury to Sir E. Malet.

Sir, *Foreign Office, February* 14, 1890.

AS the assent of the Senate of the United States has been given to the Final Act of the Conference on the affairs of Samoa, it seems advisable that the steps to be taken for giving effect to that Act immediately after its ratification should now be considered. I have therefore to request your Excellency to inquire of the German Government what course they propose to pursue, and whether it is their wish that the communication which it will be necessary to make to the Samoan Government should be prepared at Berlin.

I am, &c.
(Signed) SALISBURY.

No. 2.

Sir E. Malet to the Marquis of Salisbury.—(*Received February* 21.)

My Lord, *Berlin, February* 19, 1890.

WITH reference to your Lordship's despatch of the 14th instant, I have the honour to inclose herewith a translation of a *note verbale* which I have this day received from Count Bismarck respecting the measures proposed by the German Government for the execution of the Final Act of the Samoan Conference after ratification.

I have, &c.
(Signed) EDWARD B. MALET.

Inclosure in No. 2.

Note Verbale.

(Translation.)

IN reply to the *note verbale* of the 16th instant, Count Bismarck has the honour to inform Her Britannic Majesty's Embassy that the Imperial Representatives in London and Washington have already been instructed to make proposals to the Governments to which they are accredited concerning the requisite measures for the execution of the Samoan Act.

With regard especially to the communication to be made to the Samoan Government, it is proposed by the Imperial Government to instruct by telegraph the Consuls of the three Treaty Powers at Apia to communicate to the Samoan Government, in an identic note, the contents of the Act, and to invite their consent to the provisions of the same.

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No. 3.

Memorandum communicated by Count Hatzfeldt, February 21, 1890.

(Translation.)

THE Resolutions contained in Articles IV and VII of the General Act of the Berlin Conference on Samoa, respecting the prohibition of the transfer of land, of the importation and sale of arms and ammunition, and of the sale of spirits, have now become binding on Samoans and other natives of the South Sea Islands in virtue of the Samoan Laws of the 18th December last.

In order to make them similarly binding on the subjects and citizens of the Signatory Powers, the three Consuls should receive instructions to enact the corresponding prohibition, by means of Regulations, in respect of their own nationals, in so far as this has not already been done.

2. They should also be instructed to proceed with the division of the Municipal Territory into electoral wards in order that the Principal Judge may be enabled, immediately on his assuming his functions, to order the election and induction into office of the Local Administration in accordance with Article V, section 6, of the Act.

3. It is also desirable, especially on financial grounds, that the provisions of Article VI of the Treaty should come into force before the definitive organization of the Municipal Administration, which, under Article V, sections 5 and 6 of the Act, cannot take place till after the Principal Judge and the President of the Municipal Council have been appointed and have assumed office. In this view the three Consuls should now be authorized, in concert with the Samoan Government, to fix, by public notice, a near date for the collection of taxes and duties, and to appoint provisionally the authorities charged with the collection and administration of the revenue, pending the time when the administration shall be taken over by the Municipal Council.

4. As regards the officials to be appointed by the three Treaty Powers, the first question to be settled will be the selection of some one to fill the position of Principal Judge. The best course would be for Her Britannic Majesty's Government to propose for this post some one possessing the qualifications required under Article III, section 2, of the Act.

No. 4.

Count Hatzfeldt to the Marquis of Salisbury.—(Received March 5.)

(Translation.)

My Lord, *German Embassy, London, March 5, 1890.*

A TELEGRAM received by the Imperial Government from His Majesty's Minister at Washington states that the American Representative at Apia will be instructed to communicate the contents of the Samoan Act to the Samoan Government jointly with the German and the English Consul, and to obtain the assent of that Government to the provisions of the Act in question.

In pursuance of the instructions I have received, I have the honour, with reference to my verbal communication of the 21st ultimo to Sir Philip Currie, to bring the fact to your Excellency's knowledge, and to add that a corresponding telegraphic instruction will be sent to the Imperial Consul at Apia by the American mail-steamer leaving San Francisco on the 8th instant. I would venture to request that the Representative of Her Britannic Majesty may similarly be furnished with instructions, and that I may be informed of this action having been taken.

I have, &c.

(Signed) P. HATZFELDT.

No. 5.

The Marquis of Salisbury to Consul de Coëtlogon.—(Substance telegraphed.)

Sir, *Foreign Office, March 6, 1890.*

I HAVE to instruct you, in concert with your German and United States' colleagues, to communicate to the Samoan Government in identic notes the contents

of the Final Act of the Berlin Conference on the affairs of Samoa, and to invite the assent of that Government to its provisions in accordance with Article VIII of the Act in question.

I am, &c.
(Signed) SALISBURY.

No. 6.

The Marquis of Salisbury to Consul de Coëtlogon.

Sir, *Foreign Office, March 6, 1890.*

WITH reference to your despatch of the 8th November last,* I have to instruct you to concert with your German and United States' colleagues measures which should at once be taken for giving full effect to the Final Act of the Berlin Conference on the affairs of Samoa.

Information has been received from the German Government that Samoan Laws were passed on the 18th December last, making the provisions of Article IV, respecting land, and of Article VII, respecting arms and intoxicating liquors, binding upon Samoans; and Regulations should be issued by the Consuls of the three Treaty Powers enforcing the stipulations of those Articles on their respective nationals in so far as this has not already been done.

Measures should also be taken to proceed with the division of the Municipal Territory into electoral wards in order that the Chief Justice may be enabled, immediately on his assuming his functions, to order the election and induction into office of the Local Administration in accordance with Article V.

It will be well on financial grounds that the provisions of Article VI should come into force before the definitive organization of the Municipal Administration, which, under Article V, cannot take place until the Chief Justice and the President of the Municipal Council have been appointed and have assumed office. I have, therefore, to instruct you to arrange with your German and United States' colleagues, in concert with the Samoan Government, to fix, by public Notice, an early date for the collection of taxes and duties, and to appoint provisionally the authorities charged with the collection and administration of the revenue pending the time when the administration shall be taken over by the Municipal Council.

A translation of a Memorandum, communicated by the German Ambassador at this Court, is inclosed for your confidential information.†

I am, &c.
(Signed) SALISBURY.

No. 7.

The Marquis of Salisbury to Sir J. Pauncefote.

Sir, *Foreign Office, March 7, 1890.*

I TRANSMIT, for your information, the accompanying copies of correspondence, as marked in the margin,‡ regarding the measures to be taken by the Consuls of the three Treaty Powers for giving effect to the Final Act of the Berlin Conference on the affairs of Samoa.

I have to request you to communicate to the United States' Government the substance of the instructions which have been sent to Her Majesty's Consul at Apia.

I am, &c.
(Signed) SALISBURY.

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* See "Samoa No. 1 (1890)." † No. 3. ‡ Nos. 4 and 6.

No. 8.

Sir J. Pauncefote to the Marquis of Salisbury.—(*Received March* 17.)

My Lord, *Washington, March* 4, 1890.

I HAVE the honour to inform your Lordship that Mr. Harold Sewall has been reappointed United States' Consul at Apia.

His appointment was confirmed by the Senate on the 27th ultimo.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 9.

Sir E. Malet to the Marquis of Salisbury.—(*Received March* 24.)

My Lord, *Berlin, March* 22, 1890.

I HAVE the honour to report that I have transmitted the ratification of Her Majesty the Queen of the Final Act relative to the affairs of Samoa to his Excellency Count Bismarck, to be deposited at the Imperial Ministry for Foreign Affairs.

I have, &c.

(Signed) EDWARD B. MALET.

No. 10.

Sir E. Malet to the Marquis of Salisbury.—(*Received March* 31.)

My Lord, *Berlin, March* 27, 1890.

WITH reference to my despatch of the 22nd instant, I have the honour to transmit herewith to your Lordship translation of a note which I have received from his Excellency Count Bismarck, acknowledging the receipt of the ratification by Her Majesty the Queen of the Final Act relative to the affairs of Samoa.

I have, &c.

(Signed) EDWARD B. MALET.

Inclosure in No. 10.

Count Bismarck to Sir E. Malet.

(Translation.) *Foreign Office, Berlin, March* 26, 1890.

THE Undersigned has the honour to acknowledge the receipt of the note addressed to him by Sir Edward B. Malet, Her Britannic Majesty's Ambassador Extraordinary and Plenipotentiary, inclosing the ratifications, signed by Her Majesty the Queen of England, of the Samoa Act of the 14th June, 1889.

At the same time, the Undersigned avails himself, &c.

(Signed) Count BISMARCK.

No. 11.

Sir E. Malet to the Marquis of Salisbury.—(*Received April* 12, 3·50 P.M.)

(Telegraphic.) *Berlin, April* 12, 1890.

SAMOA Final Act.

Protocol recording deposit of the ratifications was signed this afternoon at the Foreign Office by Representatives of the three Powers.

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No. 12.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received April 18.)

My Lord, *Washington, March 27, 1890.*

WITH reference to your Lordship's despatch of the 7th instant regarding the measures to be taken by the Consuls of the three Treaty Powers for giving effect to the Final Act of the Berlin Conference on the affairs of Samoa, I have the honour to inclose copy of a note which I addressed to Mr. Blaine on the 24th instant, containing the substance of the instructions which have been sent to Her Majesty's Consul at Apia.

I inclose also copy of a note which I have received in reply, in which it is stated that the instructions to Consul Coëtlogon agree with those sent to the American Vice-Consul by the United States' Government.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 12.

Sir J. Pauncefote to Mr. Blaine.

Sir, *Washington, March 24, 1890.*

IN pursuance of instructions which I have received from Her Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to inform you that, with the view to giving full effect to the Final Act of the Berlin Conference on the affairs of Samoa, the Marquis of Salisbury has directed Her Majesty's Consul at Apia to concert with his German and United States' colleagues measures to be taken at once for that end, and I now beg to communicate to you the substance of the instructions which have been sent to Colonel de Coëtlogon on the subject, which is as follows:—

Samoan Laws having been passed on the 18th December last, making the provisions of Article IV, respecting land, and of Article VII, respecting arms and intoxicating liquors, binding upon Samoans, Her Majesty's Government are of opinion that Regulations should be issued by the Consuls of the three Treaty Powers enforcing the stipulations of those Articles on their respective nationals, in so far as this has not already been done, and that measures should also be taken to proceed with the division of the Municipal Territory into electoral wards, in order that the Chief Justice may be enabled, immediately on his assuming his functions, to order the election and induction into office of the Local Administration in accordance with Article V.

Her Majesty's Consul has been informed, at the same time, that Her Majesty's Government are further of opinion that it will be well, on financial grounds, that the provisions of Article VI should come into force before the definitive organization of the Municipal Administration, which, under Article V, cannot take place until the Chief Justice and the President of the Municipal Council have been appointed and assumed office, and he has been therefore instructed to arrange with his German and United States' colleagues, in concert with the Samoan Government, to fix, by public Notice, an early date for the collection of taxes and duties, and to appoint provisionally the authorities charged with the collection and administration of the revenue pending the time when the administration shall be taken over by the Municipal Council.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure 2 in No. 12.

Mr. Blaine to Sir J. Pauncefote.

Department of State, Washington, March 26, 1890.

I HAVE the honour to acknowledge the receipt of your note of the 24th [redacted], in which, under instructions from the Marquis of Salisbury, you com-

municate the substance of the instructions sent to Her Majesty's Consul at Apia touching his co-operation with the Consular Representatives of Germany and the United States in taking measures preliminary to the execution of the General Act of Berlin.

The instructions under which Colonel de Coëtlogon is to act appear to agree with the proposition submitted to me by the German Minister in this capital on the 2nd instant, and with the telegraphic instruction which, in pursuance of the joint understanding then reached, I sent on the 6th instant by way of Auckland to Vice-Consul Blacklock, directing him to join simultaneously with the British and German Consuls in orders restricting the traffic in fire-arms and liquors, and defining the election districts of the Municipality, and also in concerting with the Samoan Government to fix a date for beginning the collection of taxes and customs, and to provisionally appoint Collectors.

I have, &c.
(Signed) JAMES G. BLAINE.

No. 13.

The Marquis of Salisbury to Consul de Coëtlogon.

(Telegraphic.) *Foreign Office, April* 21, 1890, 2 P.M.

FINAL ACT has been ratified by Treaty Powers.

No. 14.

The Marquis of Salisbury to Count Leyden.

M. le Chargé d'Affaires, *Foreign Office, April* 22, 1890.

I HAVE the honour to inform you that, in consequence of the suggestion made by Count Hatzfeldt that Her Majesty's Government should propose a suitable person for the post of Chief Justice in Samoa, Her Majesty's Minister at Washington was instructed to ascertain whether the United States' Government would be disposed to accept their nominee.

He has received a reply to the effect that they prefer that the nomination should be made by the King of Sweden, on the ground that such a course would, in their opinion, tend to greater harmony in Samoa, where the Tripartite Treaty is to be put into operation, than if the Chief Justice were nominated by any one of the Signatory Powers.

In these circumstances Her Majesty's Government are prepared, in accordance with the provisions of the Samoan Act, to join the other two Treaty Powers in requesting the King of Sweden to nominate a gentleman for the appointment of Chief Justice in Samoa.

On hearing that the German Government concur in this course, instructions will be sent accordingly to Her Majesty's Minister at Stockholm.

I have, &c.
(Signed) SALISBURY.

No. 15.

Count Hatzfeldt to the Marquis of Salisbury.—(Received April 30.)

(Translation.)

My Lord, *German Embassy, London, April* 28, 1890.

I HAVE had the honour to receive your Lordship's kind note of the 22nd instant concerning the appointment of the Chief Justice of Samoa, and have informed my Government of its contents.

I am now instructed to inform your Lordship that the Imperial Governm[redacted] ready, in accordance with the 2nd Article of paragraph 2 of the Samoan Act,

the King of Sweden to appoint the Judge, and that the Imperial Minister at Stockholm has been furnished with the necessary instructions.

I have, &c.
(Signed) P. HATZFELDT.

No. 16.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.) *Foreign Office, May* 3, 1890, 6·35 P.M.

ACQUAINT the United States' Government that the Ministers of England and of Germany in Sweden have been instructed to ask the King to name a gentleman for the post of Chief Justice in Samoa.

Request that the United States' Representative at Stockholm may be furnished with similar instructions.

No. 17.

The Marquis of Salisbury to Sir F. Plunkett.

Sir, *Foreign Office, May* 5, 1890.

I HAVE to inform you that, in accordance with section 2 of Article III of the Final Act of the Samoan Conference, Her Majesty's Government have agreed with the Governments of Germany and of the United States to request the King of Sweden and Norway to nominate the Chief Justice of Samoa.

I have, therefore, to instruct you, in concert with your German and United States' colleagues, to address a communication to the Swedish Government, asking that the King may be graciously pleased to nominate a gentleman for the post in question.

I am, &c.
(Signed) SALISBURY.

No. 18.

The Marquis of Salisbury to Count Hatzfeldt.

M. l'Ambassadeur, *Foreign Office, May* 5, 1890.

I HAVE the honour to acknowledge the receipt of your Excellency's letter of the 28th ultimo, and to acquaint you that Her Majesty's Minister at Stockholm has been instructed to address a communication to the Swedish Government in concert with his German and United States' colleagues, asking that the King may be graciously pleased to nominate a gentleman to fill the office of Chief Justice of Samoa.

Her Majesty's Minister at Washington has been requested to inform the United States' Government of the instructions given to Sir F. Plunkett, and to request that the United States' Representative in Sweden may be similarly instructed.

I have, &c.
(Signed) SALISBURY.

No. 19.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 7.)

(Telegraphic.) *Washington, May* 7, 1890.

SAMOA. With reference to your telegram of the 3rd instant, Mr. Blaine has informed me that he would send telegraphic instructions to the United States' Minister at Stockholm as desired by your Lordship.

No. 20.

Consul de Coëtlogon to the Marquis of Salisbury.—(*Received May* 19.)

My Lord, *Samoa, April* 21, 1890.

I HAVE the honour, with the greatest respect, to forward herewith the assent of Samoa to the General Act of the Berlin Conference, attested by a certificate signed by the King of Samoa.

I have also the honour to forward to your Lordship a copy of a joint letter from the Imperial German Consul-General, the United States' Vice-Consul, and myself to the King of Samoa, relative to the General Act, and requesting assent thereto, also a copy of the King of Samoa's reply.

With regard to the General Act, it was carefully translated into the Samoan lauguage by the Imperial German Consul-General and his Samoan Interpreter, and then submitted for examination to the Rev. Mr. Clarke and the Rev. Mr. Newall, both of the London Missionary Society, so that a very good translation was made, and was thoroughly understood by the King and his Chiefs.

I have, &c.

(Signed) H. DE COËTLOGON.

Inclosure 1 in No. 20.

Certificate of Assent, signed by the King of Samoa, to General Act of the Berlin Conference.

WHEREAS a General Act relating to the organization of an independent and neutral Government of Samoa was signed at Berlin on the 14th day of June, 1889, by the Plenipotentiaries of Her Majesty the Queen of Great Britain and Ireland, Empress of India, the President of the United States of America, His Majesty the Emperor of Germany, King of Prussia; and whereas the Representatives in Samoa of the Governments of Great Britain and Ireland, the United States of America, and Germany, in bringing this General Act to the knowledge of the Samoan Government, have requested the same to assent to it as provided for in the second clause of Article II; and whereas the principal Chiefs and talking men of Samoa assembled at present in Apia have, upon my advice and counsel, unanimously resolved that the said General Act be as a whole assented to and accepted by the Government of Samoa as containing all those provisions that will guarantee peace and good order in the Samoan Islands and the future welfare of the people:

I, therefore, as King of Samoa, by these presents declare and at the same time certify the assent of the Samoan Government to the General Act as above described.

Done in triplicate at Apia, Samoa, this 19th day of April, 1890.

(Signed) MALIETOA, *le Tupu Samoa.*

Inclosure 2 in No. 20.

Joint Letter addressed to the King of Samoa.

Your (Highness) Afiaga, *Apia, Samoa, April* 12, 1890.

WE have the honour to lay before you a printed copy, together with a translation in the Samoan language, of the General Act relating to the organization of an independent and neutral Government of Samoa, which was signed at Berlin on the 14th day of June of last year by the Plenipotentiaries of the three Great Powers.

This General Act will allow the people of Samoa to form a Government, under their own native King, strong enough to prevent further civil war, and to keep peace and good order in Samoa, thus offering every security for the future welfare of its people.

The carrying out of the provisions of this General Act will, it is true, cause considerable expense, but it is not on the shoulders of the people of Samoa, but on those of the foreign residents of the islands, that the heavier part of the new charges are laid. The people of Samoa will only contribute a fair share to the general cost of the new Government.

It will, therefore, be for the best interest of the Samoan people that this General Act, after you have thoroughly acquainted yourself and the principal Chiefs and talking men of all its provisions, be as a whole assented to and accepted by the Government of Samoa as provided for in the second clause of Article II.

We now most respectfully request you to give your early attention to this important matter, and to inform us, as soon as it can be done, of the decision arrived at by your Government.

We shall have further to agree with you upon the form of the certificate by which, in conformity with Article VIII, section 2, of the General Act, the assent of the Samoan Government is to be attested under your signature.

We have, &c.

(Signed) STUEBEL, *Imperial German Consul-General.*
H. DE COËTLOGON, *Her Britannic Majesty's Consul.*
W. BLACKLOCK, *United States' Vice-Consul.*

Inclosure 3 in No. 20.

Reply from the King of Samoa.

To your Excellency H. de Coëtlogon, British Consul:

Your Excellency, *Government of Samoa, King's Palace, April* 17, 1890.

WHEREAS on the 12th day of this month I received from your (joint) hands the Treaty (General Act) made by the three Great Governments at Berlin, printed in foreign language and certified to by the names of Chiefs of those Governments, together with a translation thereof in the Samoan language, and also your (joint) letter explaining the meaning of that Treaty, &c.

In consequence thereof, I, with great respect, notify you that the Chiefs and orators of the whole of Samoa have this day made the following announcement to me:—

"We accept with satisfaction the Treaty (General Act) made by the three Great Governments. The high Chiefs and Rulers of Samoa have this day signified their acceptance by the uplifting of their hands."

I expectantly hope for a day when we shall have reciprocal information in accordance with Article VIII, clause 2, of the Treaty.

I am, &c.

(Signed) MALIETOA, *King of Samoa.*

No. 21.

Sir F. Plunkett to the Marquis of Salisbury.—(*Received May* 19.)

(Extract.) *Stockholm, May* 16, 1890.

I HAD the honour to receive on the 8th your Lordship's despatch of the 5th instant, instructing me, in concert with my German and United States' colleagues, to address a communication to this Government asking the King to nominate a gentleman for the post of Chief Justice at Samoa.

Baron Gaertner, the German Chargé d'Affaires, received similar instructions from his Government on the 11th instant, but as Mr. Thomas, the United States' Minister, has not yet heard from Washington on the subject, we are unable to take any action for the present.

No. 22.

Sir F. Plunkett to the Marquis of Salisbury.—(*Received June* 6.)

My Lord, *Stockholm, June* 2, 1890.

WITH reference to my despatch of the 16th ultimo, I have the honour to report that Mr. Thomas, the United States' Minister, called on me on the 29th to state that

he had received his instructions, and was ready to join me and our German colleague in requesting the King of Sweden and Norway to nominate a gentleman for the post of Chief Justice of Samoa.

Accordingly, in company with Mr. Thomas and Baron Gaertner, I called at the Foreign Department the day before yesterday.

As the senior of the three Representatives, I informed Count Lewenhaupt in our joint names of the instructions we had received, and requested his Excellency would apprise us in what form the King would desire that the request should be made to him.

Count Lewenhaupt said he had as yet no official knowledge of the Act concluded in Berlin, and, at his suggestion, I handed him a copy of it.

After some conversation, during which I called his Excellency's attention to the importance of the Chief Justice being thoroughly conversant with English, it was agreed that we should address to him three identic notes, asking His Majesty to nominate a gentleman for the post.

I have the honour to forward herewith a copy of the note which was agreed upon in union with my two colleagues, and which I have addressed to Count Lewenhaupt to-day.

I have, &c.
(Signed) F. R. PLUNKETT.

Inclosure in No. 22.

Sir F. Plunkett to Count Lewenhaupt.

M. le Ministre, *Stockholm, June* 2, 1890.

I HAVE the honour to inform your Excellency that by a General Act signed at Berlin on the 14th June, 1889, by the Plenipotentiaries of Great Britain, Germany, and the United States of America, in regard to the neutrality and autonomous Government of the Samoan Islands, provision is made in Article III for the establishment of a Supreme Court for those islands, and the appointment of a Chief Justice of Samoa.

Section 2 of Article III states that the "Chief Justice shall be named by the three Signatory Powers in common accord, or, failing their agreement, he may be named by the King of Sweden and Norway."

The three Signatory Powers having now decided to ask the King of Sweden and Norway to nominate a gentleman for the post, I am instructed by the Marquis of Salisbury to convey to your Excellency the request of my Government that His Majesty will be graciously pleased to name a Chief Justice of Samoa.

While discharging the duty imposed on me by my Government, I avail, &c.
(Signed) F. R. PLUNKETT.

No. 23.

Mr. Gough to the Marquis of Salisbury.—(*Received June* 13.)

My Lord, *Stockholm, June* 10, 1890.

I TOOK an opportunity yesterday to call the attention of Count Lewenhaupt to section 10 of Article III in the Final Act of the Samoan Conference, and to point out the fact that the Chief Justice of Samoa "must also be conversant with English law, and with the practice and procedure of the English Courts."

His Excellency had not lost sight of section 10 of Article III as to the law which the Chief Justice would have to administer, and gave me to understand that an eminent Swedish lawyer had been almost decided upon, and that, while well acquainted with the English language, and also with the English law as far as theory is concerned, he would naturally not have actually practised in British Courts of Law.

I have, &c.
(Signed) HUGH GOUGH.

No. 24.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received June 24.)

(Extract.) *Apia, Samoa, May* 19, 1890.

THE taxes and dues authorized by the Berlin Convention came into force on the 15th May.

Everything is quiet, and a fairly hopeful view of the future results of the Samoan Convention is generally expressed in Apia.

The speedy arrival of the new Chief Justice is anxiously awaited by natives as well as whites, and is of the utmost importance.

The delay is causing a growing feeling of distrust among all classes.

No. 25.

Colonial Office to Foreign Office.—(Received June 30.)

Sir, *Downing Street, June* 28, 1890.

I AM directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of a despatch from the High Commissioner for the Western Pacific, reporting that he had issued a Commission as Deputy Commissioner at Samoa to Mr. T. B. Cusack-Smith.

I am, &c.
(Signed) EDWARD WINGFIELD.

Inclosure in No. 25.

Sir J. Thurston to Lord Knutsford.

High Commissioner's Office, Western Pacific,
Suva, Fiji, May 7, 1890.

My Lord,

I HAVE the honour to inform your Lordship that, in accordance with the instructions contained in your Lordship's despatch of the 11th March, I have issued a Commission, as Deputy Commissioner at Samoa, to Mr. T. B. Cusack-Smith.

I have, &c.
(Signed) JOHN B. THURSTON.

No. 26.

The Marquis of Salisbury to Mr. Beauclerk.

(Telegraphic.) *Foreign Office, July* 6, 1890, 10·40 P.M.

INQUIRE what course German Government propose to take respecting nomination of President of Municipal Council.

No. 27.

Mr. Gough to the Marquis of Salisbury.—(Received July 11.)

(Extract.) *Stockholm, July* 7, 1890.

THIS afternoon Mr. Thomas, the United States' Minister, Baron Gaertner, the German Chargé d'Affaires, and I were received at the Foreign Department by Baron Akerhielm, Prime Minister and Acting Minister for Foreign Affairs during Count Lewenhaupt's absence in Norway with the King.

His Excellency stated that His Majesty the King was ready to name a Chief Justice for Samoa in the person of M. Otto Conrad Waldemar Cedercrantz, Assistant Judge of the Svea Hofratt (Court of Intermediate Appeal).

This gentleman was born in 1854, and is therefore 36 years of age.

His Majesty desired that the appointment should, if possible, be made on the 1st August, and Baron Akerhielm now communicated this fact to us semi-officially, in order that we might ask our respective Governments whether they had any objection to this nomination.

Baron Akerhielm went on to say that M. Cedercrantz desired respectfully to submit the following stipulations or inquiries:—

1. That his salary should date from the 1st August next, even if, the answer of the three Powers not having arrived, he has not actually been nominated at that date.

2. That four months' salary in advance should be paid to him either on the 1st August or the 1st September (though in either case dating from the 1st August), so as to defray the expenses of his journey and outfit.

3. That his salary, for the previous month, should in future be paid on the first day of each month; thus, for instance, his first payment in Samoa would take place on the 1st January, 1891, for the previous December. He, moreover, wishes that he should be allowed to draw for his salary on a bank at San Francisco, or to have a letter of credit on a bank at Apia.

4. He understands that he has the right to appoint a Clerk and a Marshal, and, in the interest of the three Powers themselves, he thinks it better to appoint Swedes to those two posts, so that he will have full control over them.

5. He inquires whether the three Powers will guarantee the pay of the two functionaries, at first 2,000 dollars per annum to each, and later, *i.e.*, after the first year, 2,000 dollars to the Clerk and 1,500 dollars to the Marshal.

7. M. Cedercrantz also asks the following favour, namely, that each of the three Powers should name a competent person to advise him as to what books on law and procedure in the respective countries should be taken out. M. Cedercrantz proposes to visit the three capitals, and would then receive the list of books from the gentleman thus named.

After reading the above questions with due deliberation, so as to allow us to take notes of what he said, Baron Akerhielm asked what we had to remark on the subject.

The United States' Minister thereupon said that he had heard very good accounts of M. Cedercrantz' capabilities, and believed that the American Government would grant all his wishes without hesitation; and I took the opportunity of again alluding to the question whether M. Cedercrantz was thoroughly conversant with the English language and law, and with the practice and procedure of English Courts.

As a fact, it seems that so much could not be truly said of him, but rather that he was thoroughly disposed to acquire those qualifications.

No. 28.

Mr. Beauclerk to the Marquis of Salisbury.—(*Received July* 14.)

(Extract.) *Berlin, July* 12, 1890.

WITH reference to your Lordship's telegram of the 6th instant, I have the honour to report that I have been this day officially informed by the Acting Minister for Foreign Affairs that the Imperial Government hope shortly to be able to suggest a suitable candidate for the office of President of the Municipal Council of Apia in Samoa to the Powers interested.

No. 29.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received July* 17.)

(Extract.) *Apia, Samoa, May* 22, 1890.

I TAKE advantage of an extra mail unexpectedly leaving by the American warship "Mohican," and have the honour to report that I have this day paid official visits to His Majesty King Malietoa and to my American and German colleagues, and each has expressed the warmest assurances that the most friendly feelings for the future mark our relations with one another.

King Malietoa to-day proceeded on board the American war-ship "Mohican," and his flag was saluted with twenty-one guns.

I have also the honour to report that Consul-General Sewall informed me that the American Government have presented to the Samoans the very valuable wrecks of the United States' war-ships now lying in this harbour, for the purpose of assisting them in the payment of the taxes under the provisions of the Treaty just in force.

No. 30.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received July* 21.)

(Extract.) *Samoa, June* 4, 1890.

ON Her Majesty's birthday I received the British subjects. The German Consul-General, who was ill, was represented by his Vice-Consul. Last year Her Majesty's birthday was not observed. I have the honour to inclose a copy of the "Samoa Times,"* showing that the revival of a universal custom gave general satisfaction.

Trade has been at a standstill here, but is now improving, and as a considerable amount of new building will be necessary to accommodate the new officials, there is every prospect of the improvement being maintained, and a large share of this improvement will accrue to British subjects.

An Austrian war-ship has arrived to-day.

Everything is quiet, and the most cordial relations exist between the Consuls-General of Germany and America and myself.

No. 31.

The Marquis of Salisbury to Mr. B. Haggard.

Sir, *Foreign Office, August* 2, 1890.

I TRANSMIT to you your Commission as Her Britannic Majesty's Commissioner on the Samoan Land Commission.

I am, &c.
(Signed) SALISBURY.

No. 32.

The Marquis of Salisbury to Sir F. Plunkett.

Sir, *Foreign Office, August* 4, 1890.

WITH reference to Mr. Gough's despatch of the 7th ultimo, I have to request you to inform the Swedish Minister for Foreign Affairs that the appointment of M. Cedercrantz as Chief Justice of Samoa, under Article III, section 2, of the Final Act of the Samoan Conference, will be agreeable to Her Majesty's Government.

As it is desirable that the Chief Justice should enter upon the duties of his post with as little delay as possible, Her Majesty's Government see no objection to the appointment being made by the King of Sweden at the earliest date that may seem proper to His Majesty.

As regards the wishes expressed by M. Cedercrantz, and reported in Mr. Gough's above-mentioned despatch, I have to make the following observations :—

The three Signatory Powers having agreed that the salary of the Chief Justice should commence only ten days before his departure for his post, the application of M. Cedercrantz that it should be payable from the 1st August cannot be complied with.

The three Governments have decided that the travelling expenses of the Chief Justice and of one servant shall be defrayed, and that a sum amounting to one-third of his salary shall be granted to him as an outfit allowance. M. Cedercrantz' wishes in this particular are therefore fully met.

* Not printed.

Her Majesty's Government think that the mode in which the Chief Justice's salary should be drawn is a point which may be left for future decision.

Article III, section 1, of the final Act confers on the Chief Justice the power of appointing a Marshal and Clerk of the Court, and determines the mode of their payment, namely, by reasonable fees to be regulated by order of the Court. Whilst, therefore, there is nothing against the selection of Swedish subjects for these posts, the Samoan Act makes no provision for their travelling expenses nor for a guarantee by the Signatory Powers of their salary.

It would seem advisable, then, that the Clerk and Marshal of the Court should be chosen from among persons resident in Samoa, who would, moreover, be acquainted with the language and with local conditions.

Should M. Cedercrantz, notwithstanding, still desire to take with him two of his countrymen to act in those capacities, Her Majesty's Government would be ready, if the other two Powers agreed, to pay their share (one-third) of the travelling expenses of these officers, which are estimated at 1,000 dollars.

But Her Majesty's Government cannot in any case agree to give a guarantee for their salary.

As M. Cedercrantz has expressed a desire to be aided in his selection of English law books, Mr. Davidson, the Legal Assistant of this Office, has been directed to give him such advice and assistance in the matter as may be in his power whenever he arrives in this country.

I have to request you to place yourself in communication with your German and American colleagues, with a view of coming to an agreement with them in the sense of the foregoing observations.

Whenever an agreement shall have been arrived at you will inform the Swedish Minister for Foreign Affairs, and report to me.

I am, &c.
(Signed) SALISBURY.

No. 33.

Sir F. Plunkett to the Marquis of Salisbury.—(*Received August* 7.)

My Lord, *Stockholm, August* 4, 1890.

WITH reference to Mr. Gough's despatch of the 7th ultimo, I have the honour to report that the Swedish-Norwegian Government are extremely anxious to learn whether the proposed appointment of M. Cedercrantz as Chief Justice of Samoa will be agreeable to Her Majesty's Government.

Already, at Marstrand, a fortnight ago, the King spoke to me on this subject, and now the Prime Minister, who is acting temporarily as Minister for Foreign Affairs, has begged me to obtain your Lordship's decision. His Excellency stated that the Government trust the selection will be agreeable to Her Majesty's Government. M. Cedercrantz is a man of integrity and standing, quite competent for the difficult post he has to occupy, and his honesty and impartiality may be fully relied upon.

The German Minister tells me he has already notified at the Foreign Department that the selection of M. Cedercrantz will be acceptable to Germany.

As far as I can learn, M. Cedercrantz has excellent qualifications for the post, except that of course he is not conversant with the practical working of English law, of which he has only a theoretical knowledge. But there is no Swede or Norwegian I can hear of who has practical knowledge on this point, and I have reason to fear that if this is made a condition *sine quâ non*, the King may decline to act, on the ground that he cannot select from candidates of whom he has no means of estimating the worth.

I have, &c.
(Signed) F. R. PLUNKETT.

No. 34.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received August* 18.)

(Extract.) *Samoa, July* 10, 1890.

ALTHOUGH it is probable that the mail, which is due to arrive here from England on the same day that this leaves Samoa, will render any reply to this despatch unnecessary, yet I feel it my duty to bring the following facts to your Lordship's notice.

I had the honour to draw attention, in my despatch dated the 19th May, 1890, to the distrust awakened by the non-arrival of the Chief Justice. Among the Samoans that feeling has increased.

Among the whites there is a great disinclination to pay the new taxes and licence. They point out that there is no Government, and that they get nothing in return. The Consular Board, in its endeavours to levy the taxes in the manner least likely to create friction, has been successful, but it has no ready means of enforcing payment where it is refused.

The total amount collected since the 15th May to the 30th June is about 400*l.* (in hand).

Since the war, and owing to there being practically no Government for a year, the natives have ceased to work, have planted nothing, and a dearth of food is almost a certainty in the future.

They have made very little copra, and, as this is the main article of commerce and export, trade is consequently very slack; and it is probable that the amount of copra exported this year will be greatly under the average of former years.

There are many rumours of plotting on the part of the high Chiefs against King Malietoa, and these rumours have considerable foundation.

The Chiefs fancy that the three Great Powers no longer warmly support Malietoa as King, and that he has been deceiving the people with regard to the new Government, no Chief Justice having arrived, although the Treaty was made a year ago.

Mataafa has lately tried to get King Malietoa to live with him, in order to get the King under his power. The King referred to the three Consuls, and we strongly supported him in his refusal.

I have the honour to inclose a translation of a letter from King Malietoa, which he handed to the three Consuls at a private interview on the 27th June.

We assured His Majesty of the firm support of our respective Governments, and summoned Tofae, one of the Chiefs alluded to, to attend our weekly meeting of the Consular Board.

Tofae was evidently impressed by the interview, and promised obedience to King Malietoa in future.

Inclosure in No. 34.

Malietoa's Speech.

(Translation.)

I ADDRESS you, gentlemen, the three Consular Representatives, together.

I wish most respectfully to inform you that it is my desire and my great entreaty that you may kindly help and protect me in all those things in which I have to direct this country.

For there are still people who keep up opposition, and have again changed their mind with regard to matters which have been already decided for us by your Governments.

There are several districts which refuse obedience to all the orders I have [redacted] them.

[redacted] herefore beg of you that you may help me in all those things in which I have [redacted] rders in this country.

[redacted] rther, the prohibition of fishing with dynamite. There are some foreigners [redacted] ntinue to fish with dynamite. I should like that you, the Consular Repre[redacted] es of the three Great Powers, would agree with me with a view to give that [redacted] ry protection.

[redacted] ave also forbidden to all Samoans to play cricket by Ordinance made on the [redacted] une. The latter was distributed, and one printed copy sent to the Judge

Tofae, but he returned it to me, informing me that he would not accept and follow it, neither would it be accepted and followed by his district.

I am of opinion that this (the game of cricket) should be forbidden, else nobody would think of doing useful work. From it results the shortness of food and the impossibility to think of ways and means to earn money for paying taxes to the Government and for paying debts to the merchants. By it the work of teaching the young generation is also obstructed.

Gentlemen, I hope you will approve of all the points which I have explained in this Speech, and that you will help me with regard to them for the good of this country and the Samoan Government.

This is the end of my Speech.

May you prosper.

(Signed) MALIETOA.

House of Malietoa, Apia, June 27, 1890.

No. 35.

Sir F. Plunkett to the Marquis of Salisbury.—(Received August 22.)

(Extract.) *Stockholm, August* 19, 1890.

YOUR Lordship's despatch of the 4th instant reached me on the 7th. I had previously, on the receipt of your Lordship's telegram of the 6th instant,* informed the Secretary-General of the Foreign Department, unofficially, that the appointment of Herr Cedercrantz as Chief Justice of Samoa, under Article III, paragraph 2, of the Final Act of the Samoan Conference, would be agreeable to Her Majesty's Government.

I informed my German and United States' colleagues of the instructions I had received from your Lordship, and a meeting was arranged for the 11th instant, by which time Mr. Thomas expected to receive his instructions. M. Busch and I met according to appointment, but the United States' Minister remained absent, and I hear he is still waiting for the views of his Government.

Under these circumstances, I thought it my duty to inform this Government, officially, on the 12th instant, that Great Britain agrees to the appointment of Herr Cedercrantz, and that I shall be ready to discuss the various conditions proposed by that gentleman as soon as I know what instructions Mr. Thomas has received.

The German Minister had made a similar communication a few days previously.

No. 36.

The Marquis of Salisbury to Mr. Trench.

Sir, *Foreign Office, September* 9, 1890.

I HAVE been informed by the German Ambassador at this Court that the Reports received by his Government showed that it was expedient that the appointment of the Chief Justice of Samoa should be accelerated as much as possible.

The German Minister at Washington has represented this to the United States' Government, and the American Minister at Stockholm has, in consequence, been instructed by telegraph to give the assent of the United States to the appointment of Herr Cedercrantz.

I am, &c.

(Signed) SALISBURY.

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* Not printed.

No. 37.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received September 15.)

My Lord, *Samoa, July* 28, 1890.

I HAVE the honour to inclose a translation of a Proclamation signed by me, in conjunction with the German and American Consuls-General, to all the disaffected Samoans, warning them against plotting to make Mataafa King instead of Malietoa.

I hear from all sources, Samoan as well as white, that this Proclamation has had a far-reaching and excellent effect throughout the whole kingdom.

Trusting my action at a somewhat critical moment may meet with your Lordship's approval, I have, &c.

(Signed) T. B. CUSACK-SMITH.

Inclosure in No. 37.

Proclamation to all the People of Samoa.

(Translation.)

IT has come to our knowledge that villages of Savaii, Manono, and Upolu are collecting fine mats to bring to a certain high Chief, with the object of showing him their willingness to invest him with the high titles and dignities of the various districts of Samoa:

Now, Malietoa Laupepa was made King by all the Samoans, in conformity with the General Act agreed upon by the Great Governments last year, whereupon Malietoa Laupepa was recognized as such by the Great Powers.

Has this fact been forgotten by some Samoan village?

Do they know that what they are now doing is rebellion?

Do they suppose that we, the three Consuls of the Great Powers, will submit to anything which, it is clear, must again lead to warfare in Samoa?

Certainly not. Indeed, we cannot. But we hold that it is our duty to prohibit by force the schemes of these villages, and again inform all Samoa that Malietoa Laupepa alone can be acknowledged as King of Samoa by the Great Powers, and if there be any Samoan villages that rebel against him, they will assuredly be prevented forcibly from doing so by the Great Powers, and also severely punished.

(Signed) DR. STUEBEL, *German Consul-General.*
HAROLD M. SEWALL, *Consul-General, United States of America.*
T. B. CUSACK-SMITH, *British Consul.*

No. 38.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, September* 18, 1890.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch of the 28th July last, inclosing a Proclamation signed by you, in conjunction with your German and American colleagues, warning the disaffected Samoans against plotting to make Mataafa King instead of Malietoa, and I am to convey to you his Lordship's approval of your action.

I am, &c.

(Signed) T. H. SANDERSON.

No. 39.

Foreign Office to Mr. B. Haggard.

Sir, *Foreign Office, September* 20, 1890.

I AM directed by the Marquis of Salisbury to inform you that you are at to proceed to Samoa in order to enter upon your duties as British Land

Commissioner in those islands, either at the end of October or within the first half of the following month.

I am, &c.
(Signed) T. H. SANDERSON.

No. 40.

Sir F. Plunkett to the Marquis of Salisbury.—(Received September 23.)

(Extract.) *Stockholm, September 19, 1890.*

I HAVE the honour to inclose copy of the note which I addressed to-day to Count Lewenhaupt, and which is similar in sense, though not in words, to the notes sent by my American and German colleagues.

Inclosure in No. 40.

Sir F. Plunkett to Count Lewenhaupt.

M. le Ministre, *Stockholm, September 19, 1890.*

IN compliance with instructions received from the Marquis of Salisbury, I have the honour to inform your Excellency that the appointment, proposed by His Majesty the King, of Herr Otto C. W. Cedercrantz as Chief Justice of Samoa under Article III, paragraph 2, of the Final Act of the Samoan Conference, will be agreeable to Her Britannic Majesty's Government.

I avail, &c.
(Signed) F. R. PLUNKETT.

No. 41.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, October 1, 1890.*

I AM directed by the Marquis of Salisbury to inform you that M. Otto Cedercrantz having, in accordance with Article III of the Final Act signed at Berlin on the 14th June, 1889, been named by the King of Sweden to be Chief Justice of Samoa, his nomination has been accepted by the three Treaty Powers.

M. Cedercrantz will leave Sweden on the 10th instant, and will probably proceed to Samoa by the steamer which leaves San Francisco on the 14th December next.

You are aware that the annual salary of the Chief Justice is fixed by the Final Act at 6,000 dollars in gold, or its equivalent, to be paid the first year in equal proportions by the three Treaty Powers.

It has now been agreed that the salary of Judge Cedercrantz shall commence ten days previous to his departure from Sweden for Samoa, and that for the first year it shall be paid either quarterly or monthly, as he may prefer, in proportions of one-third each, by the Consuls of the three respective Powers in Samoa.

I am therefore to instruct you to pay, from time to time, one-third of M. Cedercrantz' salary to him, after his arrival at Samoa, in accordance with the above arrangement, by bills payable to his order, and you will charge the amounts in your quarterly accounts with this Office.

I am, &c.
(Signed) T. H. SANDERSON.

No. 42.

Sir F. Plunkett to the Marquis of Salisbury.—(*Received October* 2.)

My Lord, *Stockholm, September* 29, 1890.

WITH reference to my previous despatches on the Samoan question, I have the honour to report that the King has appointed Judge Cedercrantz to be one of His Majesty's Chamberlains, and conferred on him the Cross of the Vasa Order.

I have, &c.

(Signed) F. R. PLUNKETT.

No. 43.

Sir F. Plunkett to the Marquis of Salisbury.—(*Received October* 7.)

My Lord, *Stockholm, October* 4, 1890.

I HAVE the honour to inclose a copy of the note which I received yesterday evening from the Minister for Foreign Affairs, informing me that the King, in virtue of the request made to His Majesty by the three Powers who signed the General Act at Berlin on the 14th June, 1889, has selected M. Otto Conrad Waldemar Cedercrantz, Assistant Judge in the Svea Court of Appeal, for the post of Chief Justice of Samoa.

His Excellency forwarded with the note a translation of the Royal Decree, signed yesterday, by which the King nominated M. Cedercrantz to his new post, and stated that he had addressed similar notes to the Minister of the United States and to the Chargé d'Affaires of Germany at this Court.

I have, &c.

(Signed) F. R. PLUNKETT.

Inclosure 1 in No. 43.

Count Lewenhaupt to Sir F. Plunkett.

M. le Ministre, *Stockholm, le* 3 *Octobre,* 1890.

PAR une note que vous avez bien voulu m'adresser en date du 2 Juin dernier, vous avez, en vertu de l'alinéa 2 de l'Article III de l'Acte Général, signé à Berlin le 14 Juin, 1889, entre les Plénipotentiaires de la Grande-Bretagne, de l'Allemagne, et des États-Unis d'Amérique, en vue de maintenir la neutralité et l'autonomie des Iles de Samoa, sollicité, au nom de votre Gouvernement, que Sa Majesté le Roi, mon auguste Souverain, daignât se charger de nommer une personne pour le poste de Grand Juge dans ces îles.

M. le Ministre des États-Unis de l'Amérique et M. le Chargé d'Affaires d'Allemagne m'ont adressé, à la même date, des notes analogues.

A la suite d'une communication faite par ce Ministère que le choix du Roi pour ce poste s'était arrêté sur la personne de M. O. C. W. Cedercrantz, vous m'avez adressé une nouvelle note en date du 19 Septembre pour m'annoncer que ce choix était agréable à votre Gouvernement, et la même notification a été faite également par les Représentants de l'Allemagne et des États-Unis d'Amérique.

J'ai maintenant l'honneur de vous informer que Sa Majesté le Roi a nommé pour le poste de Grand Juge aux Iles de Samoa, le Sieur Otto Conrad Waldemar Cedercrantz, Licencié en Droit et Juge-Adjoint de la Cour d'Appel, Svea, &c.

En plaçant sous ce pli traduction de l'Acte par lequel le Roi a nommé M. Cedercrantz pour le poste en question, je vous prie de vouloir bien informer votre Gouvernement de ce qui précède, en lui faisant savoir que j'ai adressé des notes identiques à MM. les Représentants de l'Allemagne et des États-Unis d'Amérique près cette Cour.

Veuillez, &c.

(Signé) LEWENHAUPT.

(Translation.)

M. le Ministre, *Stockholm, October* 3, 1890.

IN the note which you were good enough to address to me on the 2nd June last, and in accordance with paragraph 2 of Article III of the General Act signed at Berlin on the 14th June, 1889, by the Plenipotentiaries of Great Britain, Germany, and the United States of America, for the purpose of maintaining the neutrality and the autonomy of the Islands of Samoa, you requested, in the name of your Government, that His Majesty the King, my august Sovereign, would deign to nominate a fit person for the post of Chief Justice in those islands.

The Minister of the United States of America and the German Chargé d'Affaires, on the same date, addressed similar notes to me.

On receiving a communication from this Department to the effect that the choice of the King for this appointment had fallen on M. O. C. W. Cedercrantz, you addressed another note to me on the 19th September, informing me that this selection was agreeable to your Government, and also a similar notification was made by the Representatives of Germany and the United States of America.

I have now the honour to inform you that His Majesty the King has nominated for the appointment of Chief Justice in the Samoan Islands M. Otto Conrad Waldemar Cedercrantz, Licentiate of Law, and Assistant Judge of the Court of Appeal, Svea, &c.

While inclosing herewith a translation of the deed by which the King has nominated M. Cedercrantz for the appointment in question, I beg that you will be good enough to inform your Government of the above, and acquaint them with the fact that I have addressed identic notes to the Representatives of Germany and the United States of America at this point.

Accept, &c.

(Signed) LEWENHAUPT.

Inclosure 2 in No. 43.

Decree.

(Traduction.)

NOUS, Oscar II, par la grâce de Dieu, Roi de Suède et de Norvège, des Goths et des Vandales, savoir faisons que, Sa Majesté l'Empereur d'Allemagne, Roi de Prusse, le Président des États-Unis d'Amérique, et Sa Majesté la Reine du Royaume-Uni de la Grande-Bretagne et d'Irlande, Impératrice des Indes, ayant, en vertu d'un Acte concernant la neutralité et l'indépendance des Iles de Samoa, signé à Berlin, le 14 Juin, 1889, par leurs Gouvernements, demandé, d'un commun accord, par leurs Représentants accrédités à notre Cour, qu'il nous plairait de désigner un Grand Juge pour les Iles de Samoa; à ces causes et fins nous avons, en acquiesçant au vœu qui nous a été exprimé, nommé et autorisé, comme aussi par les présents pleins pouvoirs nous autorisons et nommons le Sieur Otto Conrad Waldemar Cedercrantz, Licencié en Droit, Juge-Adjoint de notre Cour d'Appel, Svea, &c., à être Grand Juge aux Iles de Samoa.

En foi de quoi nous avons signé les présentes de notre propre main et y avons fait apposer notre sceau Royal.

Fait au Château de Stockholm, le troisième jour du mois d'Octobre l'an de grâce mil huit cent quatre-vingt-dix.

(L.S.) OSCAR.

(Signé) C. LEWENHAUPT.

(Translation.)

WE, Oscar II, by the grace of God, King of Sweden and Norway, the Goths and the Vandals, make known that His Majesty the Emperor of Germany, King of Prussia, the President of the United States of America, and Her Majesty the Queen of the United Kingdom of Great Britain and Irelaud, Empress of India, having, under an Act concerning the neutrality and independence of the Samoan Islands, signed by their Governments at Berlin on the 14th June, 1889, requested, unanimously, through their Representatives accredited to our Court, that we would be pleased to select a Chief Justice for the Samoan Islands; to this end and purpose, acceding to the wish expressed to us, we have nominated and autho[redacted] as likewise by the present full powers we do authorize and nominate M.[redacted]

Conrad Waldemar Cedercrantz, Licentiate of Law, Assistant Judge of our Court of Appeal, Svea, &c., to be Chief Justice in the Samoan Islands.

In faith of which we have signed these presents with our own hands, and have caused our Royal Seal to be attached thereto.

Done at the Castle of Stoekholm, the 3rd day of the month of October in the year of Grace 1890.

(L.S.) OSCAR.

(Signed) C. LEWENHAUPT.

No. 44.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received October* 15.)

My Lord, *Samoa, August* 27, 1890.

I RECEIVED on the 29th May my Commission as Her Britannic Majesty's Deputy Commissioner for the Western Pacific, and immediately reopened the Court in Samoa.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

No. 45.

Count Hatzfeldt to the Marquis of Salisbury.—(*Received October* 15.)

lation.)

rd, *German Embassy, London, October* 14, 1890.

Y a *note verbale* dated the 7th July the British Embassy at Berlin requested informed what steps the Imperial Government were thinking of taking with to the appointment of a President of the Municipality of Apia. At the ime the British Chargé d'Affaires expressed the wish of his Government that perial Government should proposé a person suitable for the post.

s a suitable official has been found in the person of Baron Arnold Senfft von , a superior employé in the Prussian service, I have the honour to recommend the name of my Government, for the post of President of the Municipality

e same proposal will be submitted to the Government of the United States mperial Minister at Washington.

ron Senfft von Pilsach is 31 years old, of the Evangelical religion, and has "Regierungs-Assessor" since the 14th May, 1888. He has the best testi- from the authorities above him to support him, and may be expected to e duties of President in an honourable, just, and impartial manner. In the s of administration and dispensation of justice Herr Senfft von Pilsach is rsed, and knows the English language.

der these circumstances, my Government hope that Her Majesty's Govern- ill declare their acceptance of the person named.

I have, &c.

(Signed) HATZFELDT.

No. 46.

Foreign Office to Consul Cusack-Smith.

Foreign Office, October 16, 1890.

TH reference to my despatch of the 1st instant, I am directed by the s of Salisbury to transmit to you the accompanying copy of a further h from Her Majesty's Minister at Stockholm,* reporting the formal nomina- the King of Sweden of M. Otto Cedercrantz to the post of Chief Justice of

* No. 43.

I am now to instruct you to make application, in concert with your German and United States' colleagues, to the Samoan Government for their appointment of M. Cedercrantz as Chief Justice, in accordance with Article III, section 2, of the Final Act of the Conference on the affairs of Samoa. You will also request that the appointment may take effect from the 1st instant.

I am, &c.
(Signed) T. V. LISTER.

No. 47.

Count Hatzfeldt to the Marquis of Salisbury.—(Received October 24.)

(Translation.)
My Lord, *German Embassy, London, October 23, 1890.*

IN pursuance of instructions which I have received, I have the honour to propose to your Excellency that the recently appointed Chief Justice of Samoa should, when within his jurisdiction, receive from the ships of war of the three Treaty Powers the honours shown to a Consul-General, which would correspond to the respect due to his position.

The same proposal will be made by the Imperial Minister at Washington to the Government of the United States of North America, and that Government will be asked, in the event of their agreeing to the proposal, to send the necessary instructions without delay to the American authorities at Apia.

In view of the approaching departure of Herr Cedercrantz for his post, the Imperial Government would be very much obliged for an early answer respecting the proposal they have made.

I have, &c.
(Signed) HATZFE

No. 48.

The Marquis of Salisbury to Count Hatzfeldt.

M. l'Ambassadeur, *Foreign Office, November 7,*

HER Majesty's Government have had under their consideration Excellency's note of the 23rd ultimo, proposing that the recently appointe Justice of Samoa should, when within his jurisdiction, receive from the s war of the three Treaty Powers the same honours as are shown to a Consul-G I have the honour to inform your Excellency that Her Majesty's Governm prepared to agree to this proposal as an exceptional case, provided that the States' Government also agree to it.

I have, &c.
(Signed) SALISBU

No. 49.

The Marquis of Salisbury to Sir E. Malet.

Sir, *Foreign Office, December 2,*

COUNT METTERNICH referred to-day in conversation to the reques the German Government had addressed to the United States' Government recognition of Freiherr Arnold Senfft von Pilsach as President of the Muni of Apia (Samoa), and inquired how the selection was viewed by Her M Government.

He was informed, in reply, that Her Majesty's Government assented appointment, and had so informed the United States' Government in answe inquiry made by them.

I am, &c.
(Signed) SALISBU

No. 50.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received December 8.)

My Lord, *Samoa, November 3, 1890.*

I HAVE the honour to acknowledge the receipt to-day of your Lordship's despatch dated the 1st ultimo.

The news of the definite departure of the Chief Justice is felt as a relief by all classes here. I have refrained from troubling your Lordship with all the difficulties which the Consuls have had to meet in the collection of the taxes and customs.

It is enough to record that it has been a period requiring unceasing care and tact, and the fact that we have, without offence, overcome every opposition speaks for itself.

I would also record that since my arrival I have, in concert with the other Consuls, been *de facto* responsible for the whole government of Samoa. There is no Native Government whatever, and I am glad to be able to report that we have been able to keep in control the constant plots and open dissatisfaction of the natives at the long delay in the arrival of the Chief Justice. Rumours of war have been constantly in circulation.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 51.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, December 11, 1890.*

I AM directed by the Marquis of Salisbury to express to you his Lordship's approval of your endeavours to promote good order and tranquillity in the Navigators' Islands, as reported in your despatch of the 3rd ultimo.

I am, &c.
(Signed) P. CURRIE.

No. 52.

Foreign Office to Sir J. Thurston.

Foreign Office, January 15, 1891.

M directed by the Marquis of Salisbury to inform you that the German ent having nominated Baron Senfft von Pilsach as President of the l Council at Apia, under Article V of the Final Act of the Conference on affairs held at Berlin in 1889, they were informed by his Lordship, on the mo, that Her Majesty's Government would have no objection to this ent, provided it should meet with the concurrence of the United States' ent.

Majesty's Minister at Washington has now reported that he has been by the Secretary of the German Legation at that capital that the United Government, on their part, have accepted the candidate proposed by the Government for this post.

I am, &c.
(Signed) P. CURRIE.

No. 53.

Count Metternich to the Marquis of Salisbury.—(*Received January* 19.)

(Translation.)

My Lord, *German Embassy, London, January* 17, 1891.

I HAVE the honour to inform your Lordship, in accordance with instructions received, that the Imperial German Minister at Washington has reported by telegraph that Mr. Blaine, the Secretary of State, has officially notified the consent of the United States' Government to the appointment of Baron Senfft von Pilsach as President of the Municipal Council of Apia.

As the Treaty Powers have thus arrived at an agreement with regard to the person to be appointed Municipal President, it will be possible to proceed forthwith to his appointment in accordance with Article V, section 5, of the Samoa Act.

I have, &c.

(Signed) P. METTERNICH.

No. 54.

Marquis of Salisbury to Count Metternich.

M. le Chargé d'Affaires, *Foreign Office, January* 22, 1891.

I HAVE the honour to acknowledge the receipt of the note of the 17th instant by which you inform me that the Government of the United States have signified their assent to the nomination of Baron Senfft von Pilsach as President of the Municipal Council of Apia.

I have lost no time in instructing Her Majesty's Consul in Samoa to make a joint application with his German and American colleagues to the Samoan Government for this appointment, in accordance with the provisions of section 5 of the Vth Article of the Final Act of the Conference on the affairs of Samoa.

I have, &c.

(Signed) SALISBURY.

No. 55.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, January* 22, 1

I AM directed by the Marquis of Salisbury to inform you that Her M Government and the Government of the United States of America have resp notified their assent to the nomination by the German Government of Baro von Pilsach as President of the Municipal Council of Apia.

I am now to instruct you to make a joint application with your Germ American colleagues to the Samoan Government for this appointment, in acc with the provisions of section 5 of the Vth Article of the Final Act of the Co on the affairs of Samoa.

I am, &c.

(Signed) P. CUR

No. 56.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received February* 2, 18

My Lord, *Samoa, December* 23,

I HAVE the honour to acknowledge the receipt on the 15th December Lordship's despatch dated the 16th October last. I immediately commu with my German and American colleagues, who, although they had not instructions from their Governments, joined with me in procuring the appo by King Malietoa of M. Cedercrantz.

Owing to your Lordship's early instructions, we were thus enabled to the appointment previous to the arrival of M. Cedercrantz.

King Malietoa signed the appointment on behalf of the Government of Samoa on the 17th December, but in accordance with your Lordship's instructions, the appointment dates from the 1st October.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 57.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received February* 2, 1891.)

My Lord, *Samoa, December* 30, 1890.

I HAVE the honour to report the arrival to-day of M. Cedercrantz by the Union Pacific Company's steamer "Alameda."

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 58.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, February* 5, 1891.

I AM directed by the Marquis of Salisbury to convey to you his Lordship's approval of your action in the matter of the appointment by the Samoan Government of M. Cedercrantz as Chief Justice of the Supreme Court at Apia, as reported in your despatch of the 23rd December last.

I am, &c.
(Signed) P. CURRIE.

No. 59.

Count Hatzfeldt to the Marquis of Salisbury.—(*Received February* 12.)

(Translation.)

[redacted]rd, *German Embassy, London, February* 11, 1891.

[redacted]ITH reference to your note of the 22nd ultimo, I have the honour to inform [redacted]Excellency, in accordance with instructions received from my Government, [redacted]e Imperial Chancellor appointed Freiherr Senfft von Pilsach President of [redacted]unicipal Council of Apia on the 2nd instant, and that Herr von Senfft will [redacted]or his post by the Imperial mail-steamer which sails from Genoa on the [redacted]arch next.

[redacted]he Imperial Representative at Apia will be instructed to take steps, conjointly [redacted]is British and United States' colleagues, for the appointment of the Presiden[redacted] Municipal Council by the Samoan Government, in accordance with the terms [redacted]cle V, section 5, of the Samoan Act.

I have, &c.
(Signed) HATZFELDT.

No. 60.

The Marquis of Salisbury to Count Hatzfeldt.

[redacted]mbassadeur, *Foreign Office, February* 14, 1891.

[redacted]HAVE the honour to acknowledge the receipt of your note of the 11th [redacted], in which your Excellency is good enough to inform me that the Imperial [redacted]n Representative at Apia will be instructed to take steps, in conjunction with [redacted]itish and United States' colleagues, for the appointment of Baron Senfft von [redacted]n as President of the Municipal Council by the Government of Samoa, in [redacted]lance with the terms of Article V, section 5, of the Final Act of the Conference [redacted]moan affairs.

Her Majesty's Consul at Apia will be informed that Baron von Pilsach will leave for his post on the 2nd proximo.

I have, &c.
(Signed) SALISBURY.

No. 61.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received March* 2.)

My Lord, *Samoa, January* 17, 1891.

I HAVE the honour to report the arrival in Samoa on the 30th December, 1890, of Chief Justice Cedercrantz.

He was received on landing by the three Consuls, informally, and the next morning the King held a full-dress reception, when we presented the Chief Justice to King Malietoa.

M. Cedercrantz has won golden opinions so far from all classes.

As he states that he will not open the Supreme Court until the Government has built a Court-house, there is no likelihood of its being started before March, but there is no pressing necessity for its inauguration.

The natives of each district throughout Samoa are daily coming with the customary presents of food to the Chief Justice, and, so far, each district has definitely promised him to abandon the war that has been all ready to break out had he not arrived.

And, in proof of this, the natives are freely spending the money which for the last four months they have had stored up for the surreptitious purchase of guns and ammunition.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 62.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received March* 2.)

My Lord, *Samoa, January* 19, 1891.

I HAVE the honour to inclose two copies of the Notice issued by Chief J[redacted] Cedercrantz with regard to the election of the Municipal Council, which is f[redacted] the 29th January.

I concurred in the alteration of the "Alafuata road" to the "Ala Faalav[redacted] as the former is unknown, and the error arose from embodying in the Berlin[redacted] a misprint in the old Municipal Regulations of Apia.

I also agreed, subject to your Lordship's approval, to the suggestion of t[redacted] Justice that the Consular Representatives of the three Treaty Powers shou[redacted] draw all claim to vote in the Municipal elections. My colleagues also agree[redacted] suggestion.

The only American candidate for the Municipal Council is not supporte[redacted] American residents, who are all supporting British candidates.

I have, &c.
(Signed) T. B. CUSACK-SM[redacted]

Inclosure in No. 62.

Extract from the "Samoa Times" of January 10, 1891.

Proclamation.

I HEREBY make known to the people of Samoa and the foreign resident[redacted] islands that I have arrived here and assumed the duties of my office as Chief[redacted] of Samoa.

(Signed) C. CEDERCRA[redacted]

Apia, January 2, 1891.

Notice.

I hereby make known to the residents of Apia that, preparatory to the election of the Municipal Council of the District of Apia, under Article V of the Berlin General Act, the list of voters will be open for inspection at the office of the Collector of Customs and Taxes from the 11th to the 15th January inclusive, and that complaints about the lists may be addressed to me in writing and delivered to me on the 15th January at the latest.

The Municipal District of Apia is defined as follows :—

Beginning at Vailoa, the boundary passes thence westward along the coast to the mouth of the River Tuluasa, thence following the course of the river upwards to the point at which the Alafuata (Ala Faalava) road crosses said river; thence following the line of said road to the point where it reaches the River Vaisinago, and thence in a straight line to the point beginning at Vailoa, embracing also the waters of the harbour of Apia.

Each member of the Council shall be a resident of the said district, and owner of real estate or conductor of a profession or business in said district which is subject to a rate or tax not less in amount than 5 dollars per annum.

For the purpose of the election of the Council the said district has been divided into two electoral districts by a boundary-line drawn between the mouth of the water-course called Mulivai and the summit of Mount Vaea; the district between Vailoa and the boundary-line being called the West District, and the other being called the East District.

From each of these districts three Councillors shall be elected by the taxpayers thereof, qualified as aforesaid, and the members elected from each electoral district shall have resided therein for at least six months prior to their election.

(Signed) C. CEDERCRANTZ.

Apia, January 9, 1891.

No. 63.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, March* 7, 1891.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your [illegible]espatch of the 19th January, and to convey to you his Lordship's approval of your [illegible]ing agreed to the suggestion of the Chief Justice that the Consular Represen-[illegible]es of the three Treaty Powers should not claim to vote at the election of the [illegible]cipal Council at Apia.

I am, &c.

(Signed) P. CURRIE.

No. 64.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received April 2.)

[illegible]t.) *Samoa, February* 10, 1891.

[illegible]HAVE the honour to report the arrival, on the 3rd February, of Mr. Haggard [illegible] Eggert, the British and German members of the Samoan Land Commission. [illegible]entlemen complain of the delay in the appointment of the American Commis-[illegible] as pending his arrival no business can be proceeded with. He can hardly [illegible]before April in Samoa.

[illegible]r. Haggard is going back to Australia for a month.

No. 65.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received April* 2.)

My Lord, *Samoa, February* 16, 1891.

I HAVE the honour to report that, in accordance with the provisions of the Treaty of Berlin, the election of the Municipal Council for Apia took place on the 30th January, and resulted in the return of three Germans, Messrs. Weber, Haidlen, and Grevsmuhl, two British subjects, Messrs. Dunnet and Meredith, and one American, Mr. H. J. Moors, who was hotly opposed by the American Consul and Vice-Consul.

The Municipality had been divided into the East Ward and the West Ward. In the former there were 73 voters, and in the latter 83, a total of 156 voters, of whom 141 recorded their votes. The majority of the British subjects were greatly dissatisfied with the result, but as the best and most peaceable of the candidates have been returned, I hope we may be spared much contention and trouble in the municipal affairs.

After the election of the Municipal Council the Chief Justice requested the advice of the Consuls as to the powers to be exercised by the Municipal Council pending the arrival of the President. My view that the Council was incomplete without the President according to the Act was unanimously agreed to, and it was decided that, until properly constituted, the Council should merely exercise the functions previously performed by the Consuls, viz., the repairs of roads, bridges, &c., lighting, preparation of the monthly Budget, &c.

My reason for strongly wishing to limit the powers of the Municipal Council until the arrival of the responsible President was to prevent the taxes collected during 1890 being squandered in accordance with the "election promises" of the various Councillors.

Already there is a general impression that the salaries of the Chief Justice and the President will be defrayed for ever, if necessary, by the Powers; and without the most rigid supervision of the finances of Samoa some such course would become unavoidable.

The year 1890 only yielded for municipal expenditure, even supposing that all the import and export duties belong to the Municipality, a total of about 1,900*l.*, which will not, as far as can be ascertained, be much exceeded this year.

It would, I venture to suggest with all submission, be important that the Municipal President should clearly understand that after the first year he must look only to Samoa for his salary.

I have, &c.

(Signed) T. B. CUSACK-SMIT

No. 66.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received April* 2.)

My Lord, *Samoa, February* 27, 1

I HAVE the honour to inform your Lordship that no steps having bee to collect the capitation tax from the Samoans since the inauguration provisions of the Berlin Treaty here on the 15th May, 1890, in concert w colleagues I urged upon the Chief Justice on the 9th February the im necessity for its collection, as only three months remained of the current fi year. At the request of the Chief Justice the suggestions of the Consul embodied in the inclosed Ordinance, to be submitted to the Chiefs of Samoa.

The suggestion of a collection every nine months to prevent confusion minds of the natives between the American and the Chilean dollar was appr the Chief Justice, and the collection is being preceded by the necessary cens

I have, &c.

(Signed) T. B. CUSACK-SM

Inclosure in No. 66.

Draft Ordinance to provide for the collection of the Samoan Capitation Tax for the term beginning May 15, 1890, *and ending February* 15, 1891.

WHEREAS by Proclamation issued on the 2nd May, 1890, the people of Samoa were duly notified by me that the collection of taxes under Article VI of the Berlin General Act should begin on and from the 15th May, 1890;

And whereas the annual capitation tax on Samoans and other Pacific islanders is fixed by the Berlin General Act at 1 dollar gold per head;

And whereas to facilitate the collection of this tax it seems expedient to levy it for the time being in terms of nine months each, thus allowing 1 dollar Chilean coin to be raised per head in every one term;

And whereas no more time should be lost in collecting this tax for a first term beginning the 15th May 1890, and ending the 15th February, 1891:

I, Malietoa, King of Samoa, at the recommendation of the Chief Justice of Samoa, and with the consent and advice of the Chiefs and talking men appointed by the different districts of Samoa to discuss this Ordinance, do hereby order as follows:—

1. With the collection of the capitation tax on Samoans and other Pacific islanders under Article VI of the Berlin General Act for the term beginning the 15th May, 1890, and ending the 15th February, 1891, two Chiefs, or talking men, shall be intrusted in each district, viz., in Tuamasaga, N. N., N. N., &c.

2. These Samoan collectors shall proceed immediately after the passing of this Ordinance to their respective districts, and there order all the Judges of their district to draw up, within one week, a list comprising the names of all the heads of families, and the members of every family, men, women, and children, that live in their villages.

3. At the expiration of the said week the collectors shall together visit all the villages where Judges reside, and there examine the list of inhabitants drawn up by the Judges, and, if necessary, have them completed.

4. The tax to be paid by each village amounts to so many dollars Chilean coin as there are names in the list of inhabitants. This amount shall be received by the collectors from the Judges of every village within one month from the examination and approval of the list of inhabitants, and the collectors shall do all in their power to have the collection of taxes completed before the 1st day of May, 1891.

5. After having received the taxes due by all the villages of the district, the [illegible]lectors themselves shall bring without delay the amount received, together with [illegible]es of the list of inhabitants of all the villages of the district, to Apia, to be there [illegible]red to the Government.

[illegible]The amount delivered being here found in accord with the lists of inhabitants, [illegible]ry 10 dollars (10 per cent.) shall be returned by way of compensation to the [illegible]rs and Judges of the villages engaged in the collection of the tax, the [illegible]le distribution amongst the two collectors and the village Judges being left [illegible]ecision of the district.

No. 67.

Mr. Lincoln to the Marquis of Salisbury.—(Received April 8.)

[illegible]d, *Legation of the United States, London, April* 7, 1891.

[illegible]AVE the honour to acquaint your Lordship, in accordance with instructions [illegible]y Government, that the President, by and with the advice and consent of the [illegible]of the United States, has appointed Mr. Henry C. Ide, of Vermont, to be a [illegible]ommissioner in Samoa, under Article IV of the General Act signed at Berlin [illegible]n June, 1889, by the United States, Great Britain, and Germany, providing [illegible]neutrality and autonomous government of the Samoan Islands.

[illegible]. Ide is a lawyer by profession, and has a high reputation for competence [illegible]partiality. It is expected that he will leave for his post at an early date.

I have, &c.

(Signed) ROBERT T. LINCOLN.

No. 68.

The Marquis of Salisbury to Mr. Lincoln.

Sir, *Foreign Office, April* 8, 1891.

I HAVE the honour to acknowledge the receipt of your note of the 7th instant, announcing the appointment of Mr. Henry C. Ide as Land Commissioner for the United States in Samoa.

I have, &c.
(Signed) SALISBURY.

No. 69.

*The Marquis of Salisbury to Sir E. Malet.**

Sir, *Foreign Office, April* 10, 1891.

I TRANSMIT to you herewith a copy of a despatch from Her Majesty's Consul in Samoa,† reporting the election of the Municipal Council for Apia.

I have to request your Excellency to call the attention of the German Government to Consul Cusack-Smith's remarks respecting the necessity for a careful supervision of the finances of Samoa with a view to economy.

I am, &c.
(Signed) SALISBURY.

No. 70.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, April* 10, 1891.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch of the 16th February, reporting the election of the Municipal Council for Apia. Your language and views, as reported in that despatch, are generally approved by his Lordship.

I am, &c.
(Signed) P. CURRIE.

No. 71.

Sir E. Malet to the Marquis of Salisbury.—(Received April 20.)

My Lord, *Berlin, April* 17,

I HAVE the honour to acknowledge the receipt of your Lordship's d
of the 10th instant, and to inform your Lordship that, in compliance w
instructions contained therein, I have this day handed to Baron von Ma
Memorandum embodying Consul Cusack-Smith's remarks respecting the n
for careful supervision of the finances of Samoa with a view to economy.

I have, &c.
(Signed) EDWARD B. MA

No. 72.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received April 30.)

My Lord, *Samoa, March* 9,

I HAVE the honour to inclose an extract from the "Samoa Times
7th March, 1891,‡ describing the rebellious attitude of the Island of Manon
group. The firm action of the Chief Justice has, I believe, crushed wha
otherwise undoubtedly have ended in another war in Samoa.

* Also to Sir J. Pauncefote. † No. 65. ‡ Not printed.

Mataafa is entirely under the influence of the Roman Catholic priests here and there is but little doubt the action of the men of Manono was inspired from the same quarter.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 73.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received April* 30.)

My Lord, *Samoa, March* 13, 1891.

I HAVE the honour to inform your Lordship that, in conversation on the 10th March, the Chief Justice informed me that he had decided not to open the Supreme Court until probably the end of June. Meanwhile, he is preparing a skeleton Constitution for Samoa, which is to be capable of being filled in as the details are suggested by experience.

The Chief Justice intends to visit the outlying islands of the group in May.

He has decided to acquire the whole of Mulinuu Point for Government purposes, and to erect there the Court-house and other Government buildings.

Lieutenant Ulfsparre, who is Marshal of the Supreme Court, is to be appointed Head of the Government Police Force, and probably of the Municipal Police also.

This would be an excellent appointment in every way, and there is no one resident in Samoa whose appointment would not give rise to jealousies, even supposing there were any persons with the necessary qualifications. Lieutenant Ulfsparre is an officer in the Swedish Hussars, and is already popular here.

The German firm ask 8,000 dollars for Mulinuu Point, which forms one of the horns of the Bay of Apia, the British Consulate being at the extreme end of Matautu, the other horn of the bay.

No harm to British interests here is being effected at present by the delay in opening the Supreme Court.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 74.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received April* 30.)

My Lord, *Samoa, March* 14, 1891.

I HAVE the honour to report that the German Consul-General here, Dr. Stuebel, expects to leave Samoa for his new Consulate at Shanghae on the 28th April. Vice-Consul Schmidt will be in charge of the German Consulate here for a considerable time.

The American Vice-Consul-General, Mr. Blacklock, has started in business as an auctioneer and commission agent.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 75.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received April* 30.)

My Lord, *Samoa, March* 18, 1891.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch dated the 22nd January last, informing me of the nomination of Baron Senfft von Pilsach as President of the Municipal Council of Apia.

I at once informed my German and American colleagues, but as neither of them had received the information from their respective Governments, they felt unable to proceed meanwhile in securing Baron von Pilsach's appointment.

Should they receive their despatches by next mail, no time will be lost in securing the appointment.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 76.

Sir J. Pauncefote to the Marquis of Salisbury.—(*Received May* 18.)

My Lord, *Washington, May* 7, 1891.

WITH reference to your Lordship's despatch of the 10th ultimo, transmitting copy of a despatch from Mr. Consul Cusack-Smith, and instructing me to call the attention of the United States' Government to his remarks respecting the necessity for a careful supervision of the finances of Samoa with a view to economy, I have the honour to inclose copy of a note which, on receipt of that despatch, I addressed to Mr. Blaine, as well as copy of the Secretary of State's reply to my communication.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 76.

Sir J. Pauncefote to Mr. Blaine.

Sir, *Washington, April* 27, 1891.

HER Majesty's Government are in receipt of a despatch from Mr. T. Cusack-Smith, Her Majesty's Consul and Deputy Commissioner at Samoa, reporting the result of the elections for the Municipal Council for Apia, and adding that it has been decided that, until the arrival of the President, the Council shall merely exercise the functions previously performed by the Consul, viz., the repairs of roads, bridges, &c., lighting, preparation of monthly Budgets, &c.

This will check any tendency to extravagance for the present, but Mr. Cusack-Smith proceeds to state that there is a general impression that the salaries of the Chief Justice and of the President will be defrayed by the Powers so long as will be necessary; and in view of the small revenue applicable to the municipal expenditure, he warns Her Majesty's Government of the importance of exercising the most rigid supervision over the finances of Samoa, if it be desired that the Powers should not be saddled indefinitely with their contributions to the salaries in question.

I have the honour, in accordance with instructions which I have received from the Marquis of Salisbury, to draw the attention of the United States' Government to Consul Cusack-Smith's remarks on this subject.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 2 in No. 76.

Mr. Wharton to Sir J. Pauncefote.

Sir, *Washington, May* 4, 1891.

I HAVE the honour to acknowledge the receipt of your note of the 27th ultimo, relative to a recent despatch from Mr. Cusack-Smith, Her Britannic Majesty's Consul and Deputy Commissioner at Samoa, reporting that there is a general impression that the salaries of the Chief Justice and of the President will be defrayed by the Powers as long as will be necessary, and that with a view to checking any tendency to extravagance, the Council has decided to merely exercise the functions previously performed by the Consuls, and expressing the opinion that, in view of the small revenue applicable to municipal expenditure, it will be very important to exercise the most rigid supervision over the finances of Samoa, if it be desired that the Powers should not be saddled indefinitely with their contributions to the salaries in question.

Adding that the subject shall have the careful consideration of the Department, I have, &c.

(Signed) W. F. WHARTON.

No. 77.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received June 1.)

My Lord, *Samoa, April 21, 1891.*

I HAVE the honour to inform your Lordship that the American Consul-General to-day informed me that Mr. Henry C. Ide had been appointed the American member of the Land Commission in Samoa.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 78.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received June 1.)

My Lord, *Samoa, April 23, 1891.*

I HAVE the honour to announce that Tamasese, who was sometime recognized by the German Government as King of Samoa, died last week at Lufi-Lufi, in these islands. His death has been expected for some months.

The American Consul-General informed me, in conversation, that the death of Tamasese removed his greatest source of trouble in Samoa.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 79.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received June 1.)

My Lord, *Samoa, April 25, 1891.*

I HAVE the honour to report that some doubt exists here as to the position and functions of the Municipal President outside his purely municipal duties.

It is thought by the German Consulate and other persons that the Municipal President, as the Foreign Minister and Adviser of the King, is an even more influential official than the Chief Justice, and stress is laid upon section 5, Article V, of the Final Act of Berlin, which is considered to give him an almost unlimited power of independent action.

The Chief Justice requested me to give him, confidentially, an opinion upon this point.

I informed him that I had no instructions, but that I understood that, while the President, in his extra-municipal character, had a wide power of advising and initiating measures for the "promotion of peace, good order, and civilization of Samoa," yet he could not act without the sanction of the Samoan Government, and that sections 4 and 7 of Article III, and the last paragraph of section 3, Article V, of the Final Act of Berlin, reserved the final decision for the Chief Justice in case of dispute.

I also understood that under section 4, Article III, the Supreme Court had ull power to decide every question which might arise, even though in some cases there might be no dispute, except such cases as are expressly reserved for the jurisdiction of the Consular Courts.

Under this section the Supreme Court might have, it would appear, the power of initiating reforms.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 80.

Foreign Office to Consul Cussack-Smith.

Sir, *Foreign Office, June* 8, 1891.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch of the 25th April last, relative to the position and functions of the President of the Municipal Council, outside his municipal duties, as compared with those of the Chief Justice of the Supreme Court.

As the duties of the two functionaries are distinct and are clearly defined in the Act, I understand that the point raised is one only of precedence, and in that case his Lordship is of opinion that the first place should be given to the Chief Justice.

I am, &c.
(Signed) P. CURRIE.

No. 81.

Mr. B. Haggard to the Marquis of Salisbury.—(Received June 24.)

My Lord, *Apia, Samoa, May* 23, 1891.

I HAVE the honour to inform you that Mr. Ide, the Representative for the United States on the Samoan Land Commission, arrived three or four days back. Herr Eggert, the German Land Commissioner, will doubtless arrive back again here on Sunday, the 24th, when the vessel is expected from Sydney, where he has gone to recruit his health.

I have been here waiting a month since I returned from Sydney. Our Commission will doubtless begin its work four months after M. Eggert and I arrived together, owing to the absence of the American Commissioner, and I draw your Lordship's attention to the fact that, under the Treaty, there is a period of four months for the mere presentation of documents by owners or claimants to property. As there is no charge to be made by the Commissioners to any one claiming property, I am afraid we shall have many "bogus" claims, as time is of no importance to the native here, and he has no charge to meet on coming forward and claiming property; he will have everything to gain and nothing to lose. And I have, &c.
(Signed) BAZETT M. HAGGARD.

No. 82.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received June 25.)

My Lord, *Samoa, May* 15, 1891.

I HAVE the honour to inform your Lordship that on the 28th April Consul-General Stuebel handed over the charge of the Imperial German Consulate at Apia to Vice-Consul Schmidt.

On the same day Dr. Stuebel quitted Samoa for Sydney on the way to his new Consulate at Shanghae.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 83.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received June* 25.)

My Lord, *Samoa, May* 18, 1891.

I HAVE the honour to report the arrival on the 28th April of Her Majesty's ship "Cordelia."

On the 29th April the Samoan flag was hoisted at the mainmast at 8 A.M., and saluted with twenty-one guns.

On the same day Captain Grenfell and a number of the officers were received by the King, who expressed his extreme pleasure at the timely advent of one of Her Majesty's ships, and desired his deep feelings of respect and esteem to be conveyed to Her Majesty.

All the native Chiefs of the Samoan Government were present, and several of them stated that, whereas they had begun to feel that Great Britain had forgotten Samoa, the arrival of the war-ship and the marked respect paid to King Malietoa had reassured them, and would produce an excellent effect throughout the country.

The King and his Government thanked me for my efforts to maintain peace since my arrival, and I replied that I was only carrying out the wishes of Her Majesty's Government.

King Malietoa paid an official visit to Her Majesty's ship "Cordelia" on the 1st May, when he was saluted on his arrival and departure.

Her Majesty's ship "Cordelia" left Samoa on the 15th May.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

No. 84.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received June* 25.)

My Lord, *Samoa, May* 21, 1891.

I HAVE the honour to report that the Chief Justice represented to me, unofficially, his desire that Her Majesty's ship "Cordelia" should convey him and some native police to Léoné, in the Island of Tutuila, to bring back on board some Chiefs who for a long time have defied the orders of the King Malietoa; that they should come to Apia to attend an inquiry into certain offences committed by them against the authority of the Local Resident Magistrate appointed by the Samoan Government; and

2. To compel a large number of natives who, for two years past, since the war, have been living at Léoné and constantly causing trouble, to return to their own homes; and

3. To prove that the Samoan Government, in its work of securing peace and order, has the assistance of the Treaty Powers, and thus refute the rumour which is gaining credence all over the islands, and creating difficulties, that the Samoan Government is left entirely to itself.

At an interview with Captain H. Grenfell, commanding Her Majesty's ship "Cordelia," he informed me that he had no instructions from the Admiral at Sydney to interfere in the police duties of the Samoan Government, and that, in the event of my being unable to show him any special instructions in this matter, he could not accede to the request of the Chief Justice. Captain Grenfell was also unwilling to place his ship in the invidious position of threatening without being able to carry out his threats. I informed Captain Grenfell that I agreed in his decision.

I informed the Chief Justice next day, the 6th May, of Captain Grenfell's reply, and that I had received no instructions in this matter, and that I agreed in the decision.

The Chief Justice expressed considerable surprise and concern, and stated that he had understood that the three Treaty Powers would constantly maintain a war-ship at Apia to support him actively in carrying out the Treaty of Berlin.

In the absence of such active support, the Chief Justice considered that the successful carrying out of the Berlin Treaty became almost impossible. His orders were now disobeyed, and he had no power at his back to enforce them.

I reminded the Chief Justice that, in view of the disaster attending the landing of German sailors at Vailele in 1888, reported on p. 269 of Blue Book, "Samoa No. 1 (1889)," the landing of a small force would always be attended with risk, and I explained that it was owing to exceptional circumstances that so large a ship as the "Cordelia" had been sent to Samoa, and that she could only land a maximum of eighty men, a force inadequate in most cases in the dense bush. If, according to usual routine, one of the smaller ships had been sent, the possible landing party would be much smaller.

Only last year the American Consul-General, in October, backed up by the United States' ship "Mohican," visited the very same place, when the natives retired to the hills and defied the war-ship.

I inclose the account which appeared of his visit in the "Samoa Times" of the 1st November, 1890, which, however, is very meagre.

I further said that it would be impolitic to place Her Majesty's ship in an undignified position, and that I could not assume the responsibility of risking the lives of any of the crew, for, in the very probable event of the Chief Justice and his police being attacked, it would be necessary to land sailors to protect him.

I also deprecated the use of war-ships of the Treaty Powers for police duties, as tending to produce a constant fear of annexation on the part of the population, and to increase the feeling of disquiet and uneasiness in Samoa.

The Chief Justice has informed me of his intention to represent this matter to the Treaty Powers with a view to the issue of definite instructions to the Consuls here.

He has since informed me that neither of my colleagues have any such instructions.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

Inclosure in No. 84.

Extract from the "Samoa Times" of November 1, 1890.

TUTUILA.

(From our own Correspondent.)

Léoné, October 20, 1890.

THERE has been quite a lot of excitement caused up here lately. It commenced through some rather high-handed action on the part of the Chief Native Magistrate of this district, and the natives of ten or twelve villages concluded that the best thing they could do would be to start a game of cricket, and so ignore his Worship. On this taking place the Chief Magistrate started a counter-irritation by giving out that a war-ship was coming here to take all cricket-players away off from the island, and so everything went on with a lot of talk on both sides until the arrival of Mr. Sewall, United States' Consul-General, on which occasion the Chief Magistrate tried to call a meeting of all the Chiefs in the district to talk the matter over with Mr. Sewall, but the affair was a failure. Of the hundred or so Chiefs in this district only seven or eight rolled up, and those not very willingly.

Two days after the departure of Mr. Sewall this village was startled by the sudden appearance of at least 400 well-armed men, who came from all the villages in this district eastward of Léoné. The Chief Magistrate, however, being previously warned, had judiciously left his house and camped some half-mile away, the other end of the village. The malcontents were met by the Léoné Chiefs in the "malae," or meeting-place, and some big talking took place. The armed party demanded that the Magistrate should be deprived of all native titles and Chieftainship, and sent away off the island; but the Léoné people would not agree to all this, and made the others content themselves with depriving the Magistrate of his Chief name, and giving the name to another.

At one time the affair looked very black, and it was only through the exertions of Mr. Ripley, and a few of the more sensible Chiefs, that a fight or small war was avoided. Everything is quiet at present, but it is impossible to say how long this

will last. I hear that the malcontents are angry with the Léoné people for not driving the Chief Magistrate away.

No. 85.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received June* 25.)

My Lord, *Samoa, May* 22, 1891.

I HAVE the honour to report the arrival, on the 26th April, of the President of the Municipal Council.

Baron von Senfft was introduced to the King on the 27th by the Consuls, and, in accordance with your Lordship's instructions, I made a joint application to the King to appoint the Municipal President on the 5th May, and the King signed the appointment on the 6th May.

The delay was caused by the American Consul-General not having received his instructions.

I shall be glad of your Lordship's instructions as to the payment of the salary of the Municipal President for his first year of office. His appointment was dated the 1st February, following the precedent in the case of the Chief Justice.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

No. 86.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received June* 25.)

My Lord, *Samoa, May* 22, 1891.

I HAVE the honour to report the arrival on the 17th May of Mr. Ide, the American member of the Land Commission.

Mr. Haggard returned to Samoa on the 26th April.

M. Eggert, the German Land Commissioner, is so ill that he is popularly reported to be in a rapid decline. He has been for the benefit of his health to Australia, and is expected to return here to-morrow.

He certainly, when he left Samoa, did not look equal to the transaction of any business.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

No. 87.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received June* 25.)

My Lord, *Samoa, May* 23, 1891.

REFERRING to my despatch of the 21st May, I have the honour to inform you that the Chief Justice communicated, individually to my colleagues, the great importance he attaches to the constant presence and support of the war-ships of the three Treaty Powers.

The Consuls met informally yesterday, and were absolutely unanimous in the following decisions, which, though not passed as formal Resolutions, I have numbered for facility of reference:—

1. That, in view of the urgency of the request made by the Chief Justice, each Consul should urge upon his Government the necessity of a common agreement between the three Treaty Powers to maintain, in rotation for the present, except during the hurricane months, a war-ship at Apia.

2. That, upon the written request of the Chief Justice, approved by the Consuls, the war-ship on duty for the time being should convey the Chief Justice on purely peaceful visits to the various islands of the group, but that, on no account, ought the war-ships or sailors of the Powers be used for, or mixed up in, punitive expeditions.

I have therefore the honour to submit these decisions for your Lordship's approval, and in doing so I feel it my duty to say that I am influenced by the urgency of the Chief Justice's request, and the fact that he considers that the presence of a war-ship was promised to him before accepting office.

I cannot myself attach the same importance to the literally constant presence of a war-ship, and personally think it would be amply sufficient if a war-ship of each Power visited Samoa once or twice a-year, remaining a fortnight or more at each visit.

It would be easy to arrange that the visits of ships of different nationalities should take place in specified months.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 88.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received June 25.)

My Lord, *Samoa, May 23, 1891.*

I HAVE the honour to report that the present position of affiairs in Samoa is becoming critical.

The Government possesses at present even less influence and power than the sway of the three Consuls which preceded it. The Consuls obtained a certain amount of authority from the reflected power of the nations they represented, which does not accrue to the Chief Justice and his Government.

Nearly five months have elapsed, and nothing of importance has been done.

The Supreme Court has not been started, no appointments have been made, no police force recruited, in fact, the natives openly defy the Government, and insubordination is steadily increasing.

The Chief Justice commenced work with the new year, and the Government is still without any money whatever to meet even the vitally important and necessary duties of maintaining order and obedience.

It is, as the Chief Justice owns, more than doubtful whether the capitation tax on natives for last year, now being collected, will be paid over to the Government in July as promised. Many districts have refused to pay, and at least one village has removed bodily to another island to escape taxation.

The white traders throughout the group have set a good example in paying their taxes and licences, but the expense of collection has been great.

I am convinced that, unless the Government can use powerful compulsion, it will be quite futile to attempt the collection of the capitation tax for 1891, which is due.

Meanwhile, without funds, the Government is paralyzed, and is becoming more manifestly feeble every day in the eyes of both Samoans and foreigners.

The Chief Justice confesses in confidence that unless he can have at his back a sufficient force to enable him at once to proceed resolutely and powerfully, he has but small hope of any successful working of the Berlin Treaty.

I am sure that it is a necessity that he should have for two years at least a sufficiently strong force of native constabulary, nominally under Government orders but taking their orders direct from the Chief Justice, to compel obedience to the decisions of the Supreme Court and of the Government.

Slightly extended powers of independent action granted to the Chief Justice would greatly facilitate the possibility of a successful issue to the provisions of the Treaty.

If the Treaty Powers would advance a small sum sufficient to really establish the Government, the repayment is absolutely certain, and the Chief Justice would be in a position to vigorously collect the taxes and proceed with the work of pacifying Samoa, which has to be done before the provisions of the Treaty can be successfully applied.

These suggestions which I venture to lay before your Lordship have the warm approval of the Chief Justice.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 89.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, July* 1, 1891.

IN reply to your despatch of the 22nd May, I am directed by the Marquis of Salisbury to instruct you to pay to Baron Senfft von Pilsach one-third of his salary for the first year by bills payable to his order, and to charge the amount in your quarterly accounts with this Office.

You will arrange with your German and United States' colleagues as to whether the payments on this account should be made monthly or quarterly.

If they are authorized to pay the salary from the 1st February, the date of appointment, you may do the same, though Baron Senfft von Pilsach did not leave Genoa for Samoa until the 2nd March last.

I am, &c.
(Signed) P. CURRIE.

No. 90.

Mr. Trench to the Marquis of Salisbury.—(Received July 13.)

My Lord, *Berlin, July* 11, 1891.

I HAVE the honour to report to your Lordship that Baron Rotenhan has informed me that the German and United States' Governments have each paid a third part of 7,500 marks, the sum fixed for the travelling and installation expenses of the President of the Municipal Council at Apia.

I have, &c.
(Signed) P. LE POER TRENCH.

No. 91.

The Marquis of Salisbury to Mr. Trench.

Sir, *Foreign Office, July* 15, 1891.

WITH reference to your despatch of the 11th instant, I have to request you to pay to the German Government the sum due by Her Majesty's Government on account of their share of the travelling and installation expenses of the President of the Municipal Council at Apia, amounting to one-third of 7,500 marks.

You will charge the amount in your account of extraordinaries under the sub-head of "Special Missions."

I am, &c.
(Signed) SALISBURY.

No. 92.

Extract of Report from German Vice-Consulate, Apia.—(Communicated by Prince Pless, July 17, 1891.)

(Translation.)

DURING the recent visit of the British man-of-war "Cordelia," the Chief Justice of Samoa requested the invervention of the English Consul to obtain a passage to Tutuila on board that vessel, in order to settle some disturbance which had broken out there, and to bring back to Apia as a punishment a number of natives who had refused to obey the orders of the Samoan Government.

On Captain Grenfell refusing to grant this request, and basing his refusal on the tenour of his instructions, Herr Cedercrantz applied to the Representatives of the three Treaty Powers to obtain from their respective Governments the required instructions to the Consuls and the naval officers. Herr Cedercrantz gave the Consul to understand that he would send a written application, but afterwards desisted from his intention, and repeated his application to-day by word of mouth. As Messrs. Sewall and Cusack-Smith had already consented to the request of the Chief Justice that they should report about the matter to their Governments, I have thought it my duty not to hold aloof from the point Herr Cedercrantz has raised, even in its present position.

As regards the matter itself, the Consular Representatives are agreed that support of the Samoan Government by vessels of war must be confined, in this case and in general, to bring the Chief Justice (and the President of the Municipal Council, as Adviser to the Government) to the spot, accompanied, if necessary, by the proper legal or other officials on board a man-of-war, and giving weight to their decisions by the presence of the latter. Any possibility of a conflict between the Consuls would be prevented by the Samoan Government not applying only to the Consul belonging to the country represented by the ship of war, but having to obtain the consent of the two other Consuls, and the proper amount of deliberation would be imparted to the steps taken by the Samoan Government by the space of time necessary for the Representatives of the three Powers to arrive at an agreement. The principle has already been laid down in the despatch of the 12th January, 1880, that the ships of war of the three Powers should not act with a view to maintaining peace and order in Samoa except with the consent of all three Consuls, and such a combined support of this Government has several times been followed with the greatest success, as, for instance, in the case reported by Consul-General Dr. Stuebel on the 11th December, 1883, and in that mentioned in the despatch of the 9th September of last year, in which Consul-General Sewall went to Savaii on board the "Mohican" with a mandate from the Consuls to publish a common Proclamation.

The Consuls would not consider themselves empowered, without fresh instructions, to cause any landing of troops for supporting the Samoan Government, or, in fact, to sanction any military demonstrations. In my case, this would be prohibited by the terms of the despatch of the 4th April, 1889. But even an application from the Government to take Samoan police on board and land them under the protection of the guns should not be complied with, in the opinion of the Consular Representatives, without fresh directions. The Government should, in such a case, transport their police in boats or any other way. Similarly, transport of prisoners by vessels of war should be avoided, though the latter might possibly be allowed to convoy the Samoan vessels across.

For my part, if a requisition of a German vessel of war were made, I should, as a general principle, take the line described by Consul-General Dr. Stuebel in his Report of the 28th March, 1891, for my guidance.

The Chief Justice has stated to the Consuls that it would be a particularly valuable help to the Samoan Government if it could be arranged between the three Powers always to keep *one* ship of war stationed here, with the exception of the three months of the bad season.

I have the honour to beg your Excellency to furnish me with instructions on both the above points, and also, in the case of the matter being settled favourably to the Samoan Government, as to what attitude should be taken up with regard to the expenses caused by the passages and keep of the Samoan officials.

No. 93.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received July* 23.)

My Lord, *Apia, June* 8, 1891.

I HAVE the honour to remind your Lordship that in my despatch of the 23rd May I drew attention to the unsatisfactory and somewhat critical position of the Samoan Government, and I have now the honour to report that on Sunday, the 31st May, at 8 A.M., I received information that Mataafa, who was some time Vice-King,

had that morning proceeded to the Roman Catholic church in Apia at 6 A.M. to attend service, and had thence been taken down to Malié, a village some 7 miles down the coast westwards, by natives in boats, for the purpose of being made King in opposition to Malietoa Laupepa.

As the village of Malié has, according to Samoan custom, the right of conferring the Royal title of Malietoa, the gravity of the news was greatly increased.

At midday I received a letter from King Malietoa Laupepa confirming the report.

I went to Mulinuu and saw the Chief Justice and the President of the Municipal Council, but obtained no information beyond the fact that a petty Chief and two policemen had been dispatched to Malié to demand the return of the prisoners.

On my way home the King came out to meet me, and urged that the Consuls should assist him in this difficult matter. I replied, in Samoan, that the Samoan Government was supported by the three powerful nations, and that he need not be anxious.

The return of the prisoners having been refused, the Government had, on the evening of the 1st June, exhausted all its resources for securing obedience to its demands, two expeditions having returned unsuccessfully.

At my suggestion the Consuls then met informally to consider the situation. We were unanimous in thinking that peace or war trembled in the balance, and that some step should be taken to calm the apprehensions of the white residents.

Just at this point the Municipal President arrived, and stated that as a last resource he was himself going to Malié to induce Mataafa to deliver up the prisoners. He informed us further that the Chief Justice would not accompany him, for the Chief Justice was going next morning on a trip to Savaii.

The Municipal President, on behalf of the Samoan Government, begged the Consuls to accompany him on his mission, as he had but small hopes of success if he went alone.

This request having been made in writing, the Consuls unanimously agreed to accede to it, and on the 2nd June accompanied the President, not in connection with the Samoan Government, but as representing the Treaty Powers.

At the interview Mataafa was warned in the strongest terms by each of us that any opposition to the Samoan Government would entail on him the severest penalties.

He informed us that he was not in rebellion against the Samoan Government, or in opposition to the Treaty Powers, but that he had recently been made King by some of the most influential districts of Samoa, and that he could easily have broken up the Samoan Government, with which, however, he did not wish to interfere. It would continue to be the Government for the white people, and he would assist it in a friendly manner. There had been two Kings frequently in Samoa.

Finally, he said that after hearing our warnings he would submit his grievances to the Samoan Government, and in accordance with the request of the Consuls, return with them to Apia forthwith.

This he did, and after two days was permitted by the Samoan Government to return to Malié on parole for three weeks, after which he promised to return to Apia and arrange with the Samoan Government as to his future residence.

He returned the prisoners.

Owing to the inopportune absence of the Chief Justice, both the Municipal President and the Consuls were deprived of his advice and decision in this most critical matter.

The action of the Consuls in bringing Mataafa back to Apia immediately allayed all feeling of insecurity, and the submission of Mataafa, even temporarily, to the Samoan Government has seriously damaged his prestige. It also postponed the war, giving the Samoan Government time to recruit and prepare the necessary force to deal with Mataafa, or to arrange other plans.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

No. 94.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received July* 23.)

My Lord, *Apia, June* 15, 1891.

I HAVE the honour to report that the German war-ship "Sperber" arrived here on the 6th June, intending to make only a short stay.

In view, however, of—

1. The bad effect upon the natives which would be occasioned by the departure of the war-ship just before the 1st July, when the capitation tax has to be paid;

2. The fact that the punctual payment of the tax is vitally important to the Samoan Government;

3. The great uncertainty as to its payment reported in my despatch of the 23rd May; and

4. The position of Mataafa at Malié, reported in my despatch of the 8th June;

the three Consuls unanimously agreed that it was necessary that the "Sperber" should remain at Apia until after the 1st July, and that if possible a war-ship of the two other nations should be present about the same date.

The "Sperber" accordingly arranged to remain till the 12th July, when she must leave for Sydney to receive her relief crew.

I wrote on the 7th June to Admiral Lord Charles Scott, Commander-in-chief at Sydney, explaining the situation here, and concluded in these words:—

"If your Lordship can, without great additional expense or trouble, spare a ship to visit Samoa on or about the 1st July or on the 12th to relieve the 'Sperber,' the assistance to the Samoan Government will be very great. The ship need only make a short stay—just sufficient to demonstrate to the Samoans that the three Powers are still united in dealing with Samoa."

The "Sperber" has since, on the representations of the Samoan Government, arranged, with the consent of the German Government, to further extend her stay, her relief crew being sent up here from Sydney.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

No. 95.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received July* 23.)

My Lord, *Apia, June* 22, 1891.

I HAVE the honour to acknowledge the receipt of your Lordship's communication of the 30th April relative to the finances of Samoa.* Consul-General Sewall showed me the Memorandum presented thereupon to the United States' Government, and the reply of his Government. I showed him, at his request, for his information, in a friendly way, a Memorandum which I drew up in May upon the probable finances of Samoa for the current financial year.

I have corrected it to date as far as possible from recent doings of the Government and Municipal Council, but it must be considered as approximate only.

I inclose a copy for your Lordship's information.

It having been agreed, since my despatch of the 16th February, that every act and resolution of the Municipal Council must be submitted for the approval of the Consular Board before becoming law, an effective check upon municipal expenditure is in operation.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

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* Transmitting copy of No. 71.

Inclosure in No. 95.

Memorandum on the probable Revenues of Samoa, estimated at the Berlin Conference to amount to 90,000 *dollars, or about* 18,000*l.*

Probable Receipts from March 31, 1891, to March 31, 1892.

	Dollars.
1. Capitation tax, say	30,000
2. Customs duties (in 1890–91 were 9,540 dollars), say	12,000
3. Government taxes collected inside the Municipality (in 1890–91 were 2,071 dollars), say	2,100
4. Ditto, outside the Municipality, say	2,000
5. Municipal taxes, licences, &c. (in 1890–91 were 3,994 dollars) say	4,500
6. Property tax (in 1880 yielded 2,311 dollars), say	2,800
7. Harbour, quarantine, and other dues, fines, &c., say	500
Total	53,900
Or about	£10,780

Appropriated as under:—

For Samoan Government.

	Dollars.
1. Capitation tax, say	30,000
3. Government taxes within Municipality	2,100
4. Ditto, extra-Municipality (Court fees and stamp duties not included.)	2,000
Total	34,100
Or about	£6,820

For Municipality.

	Dollars.
2. Customs duties	12,000
5. Municipal taxes	4,500
6. Property tax	2,800
7. Harbour dues, &c.	500
Total	19,800
Or about	£3,960

Expenditure.

By Municipality.

	Dollars.
President's salary	5,000
Officials' salaries	7,000
Subsidy to interinsular steamer in lieu of travelling expenses, say	1,000
Minimum expenditure for municipal affairs (in 1890–91, 1,073 dollars), say	2,000
Balance for improvements, &c.	4,800
Total	19,800

By Samoan Government.

(Rough estimate.)

	Dollars.
Chief Justice's salary	6,000
Officials' salaries, say	7,000
Police, say	4,000
Gaol, &c., less Court fees, say	2,000
Post Office, mail contracts, &c., say	2,000
Printing office, say	500
Stationery, say	1,000
Subsidy to interinsular steamer in lieu of travelling expenses, say	1,000
Maintenance of King and his officials, say	2,000
Balance	8,600
Total	34,100

No. 96.

Mr. B. Haggard to the Marquis of Salisbury.—(Received July 23.)

(Extract.) *Apia, Samoa, June 12, 1891.*

I HAVE the honour to inform you that my German colleague, Herr C. Eggert, returned here from Sydney some five or six days after the arrival of the United States' Commissioner, Mr. H. Ide. We began making arrangements at once for opening the Commission, and speedily got matters so far advanced that we published our Notice (in English, German, and Samoan) in the "Samoa Times" newspaper, in its issue of the 30th May. We also had printed our official Notice in those languages, dated the 1st June, in accordance with Article IV of the Berlin General Act. I inclose copy of the "Samoa Times" with the advertisement, also copies of our official placard.

With respect to the order in which our signatures are affixed, it was suggested and accepted by us all that our respective ages should be the rule for the order in which we should always sign documents. It was found that the United States' Commissioner was the oldest, I was next in order in years, and Herr C. Eggert the youngest; consequently we respectively signed, and shall do so in the future, in that order.

We fully expected to have taken our rooms and offices for the Commission, and engaged our Secretary, on the 1st day of June. As your Lordship is aware, by Article IV, section 2, of the Berlin General Act, the Chief Justice of Samoa has to approve of the items of expenditure to be incurred by the Land Commissioners. Before, therefore, actually incurring this expenditure, we wrote a joint letter to the Chief Justice. We sent it him specially on the morning of the 30th May, informing him what expenses we were about to incur, and asked his approval. Hearing that he, though he that day himself had only opened his Court, was proceeding for a fortnight's trip round the Island of Savaii, we requested Herr C. Eggert to see the Chief Justice and beg him to look at our letter and give us a reply. This he did, but the Chief Justice said he had not time to attend to our letter.

The Chief Justice did not leave here till the 2nd June about midday. M. Eggert saw him a second time and again requested his attention, but he gave us no answer. I trust that immediately on his return, in some three days' time, he will favour us with a reply. Fortunately the four months' probation time, from the 1st June, is running, as we had advertised the opening of the Commission from that date.

I shall have the honour in a few days of forwarding to your Lordship printed copies of our Rules, our forms for aliens' claims, and native objections.

I can assure your Lordship that since we Commissioners have been able to meet together, we have not delayed an hour. We are most anxious to commence hearing cases and adjudicating as fast as possible.

Inclosure in No. 96.

Extract from the "Samoa Times" of May 30, 1891.

SAMOAN LAND COMMISSION.

NOTICE is hereby given that the Commission appointed by the three Treaty Powers for the adjustment and settlement of all claims by aliens of titles to land or an interest therein in the Islands of Samoa in accordance with Article IV of the Berlin General Act, relating to Samoa, has been duly organized, and that all claims on the part of any foreigners to any title or interest in lands in Samoa must be presented to the Commission, with due description of such claim and all written evidence thereof, within four months from the 1st day of June, A.D. 1891, for the purpose of examination and registration, and that all claims not so presented will be held invalid and for ever barred. The head-quarters of the Commission will be at Apia, and all claims should be there duly presented.

Dated at Apia, in Samoa, this 30th day of May, A.D. 1891.

(Signed) HENRY C. IDE, *Commissioner on behalf of the United States of America.*

BAZETT MICHAEL HAGGARD, *Her Britannic Majesty's Commissioner.*

C. EGGERT, *His Imperial German Majesty's Commissioner.*

No. 97.

Mr. B. Haggard to the Marquis of Salisbury.—(Received July 23.)

(Extract.) *Apia, June 22, 1891.*

I HAD the honour, in a despatch dated the 12th June, to inform you that a communication made by the Samoan Land Commissioners had not been replied to at that date by the Chief Justice of Samoa. I have now to inform your Lordship that on the 20th June we received an answer.

This letter of the Chief Justice was dated the 19th June, and was received on the 20th. We had requested him to approve of certain expenditures under Article IV, section 2, of the Berlin General Act, viz., the hire of rooms at not more than 30 dollars per month; the salary of a Secretary at, per month, not more than 100 dollars; the purchase of a safe at not more than 150 dollars; the purchase of a stamp and seal; the salary of an interpreter at 75 dollars per month, and other items, such as stationery, the expenses of a Surveyor, office, furniture (possibly), were mentioned. The Chief Justice approved of the expense of hire of rooms and an interpreter. But the all-important questions of the employment of a Secretary and the purchase of a safe he did not agree to, nor did he allude in his reply to the other matters mentioned.

As there are said to be 2,500 to 3,000 claims, your Lordship can understand that the clerical work will be very heavy, and the engagement of a Secretary an absolute necessity. I trust I have your Lordship's approval in agreeing to the engagement of a Secretary now. We shall pay him about 100 dollars per month, not more. We certainly do not require the services of an interpreter at present, whereas we do require the aid of a Secretary. When we do have to employ an interpreter, *should* we require his services daily, I do not think that he will receive more than 40 dollars per month.

The expenditure for purchase on hire of a safe or safes is one the Commission cannot avoid. Your Lordship is aware we have to take charge of all the deeds of aliens in Samoa. Although this is not allowed by the Chief Justice, I trust your Lordship will approve of my agreeing to this expenditure. We are negotiating the hire of a safe rather than the purchase. Should we succeed in hiring, we shall pay about 5 dollars per month per safe. The stamp and seal we have already purchased.

I think, considering our duties, your Lordship will agree such articles are an absolute necessity for the Commission, and approve of our expenditure in that direction. The stamp is in daily use, and the seal will be directly we begin to give certificates of titles. Of course we do not require yet the services of a Surveyor, but he will have to be employed in due course. That is provided for in the Treaty, though not alluded to by the Chief Justice. Stationery and books (note and account) are expenses we cannot avoid, though limited, and of course there is a printing bill, which expenditure we are directed to incur, though it is not provided for by the Treaty, except it comes under the general term of taking evidence. These expenses, the Commissioners maintained, all came under that general term. The Chief Justice thought otherwise, and I have therefore to submit these matters for your Lordship's approval, and sanction of these expenditures, which I respectfully trust I shall receive.

I can assure your Lordship I have, as have my colleagues on the Commission, studied carefully to avoid expenditure in every way possible. We were obliged to mention sums to the Chief Justice (except in the case of the hire of rooms) in excess of what we shall expend, as we could not tell what would be actually requisite, but they will be always considerably less than what are named. I have the honour to forward herewith a copy of the Rules of Procedure for the Land Commission, drawn up by my colleagues and by myself. Also forms to fill in by alien claimants to land, and forms for native Samoan objectors, framed by us.

Inclosure in No. 97.

SAMOAN LAND COMMISSION.

Rules of Procedure.

[Not printed.]

No. 98.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received July 23.)

My Lord, *Apia, June* 23, 1891.

I HAVE the honour to report that, although the Supreme Court has not yet been opened for hearing cases, the office of the Clerk of the Court has been opened at Mulinuu.

I inclose a copy of the Court Rules.*

I have, &c.

(Signed) T. B. CUSACK-SMITH.

No. 99.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received July 23.)

My Lord, *Apia, June* 23, 1891.

I HAD the honour to forward, through the Earl of Jersey, a telegram asking your Lordship to suspend consideration of my despatch of the 23rd ultimo until my further despatches were received.

I have now the honour to draw your Lordship's attention to the fact that, owing to the protracted delay in the arrival of the Municipal President, the Chief Justice had, not unnaturally, assumed nearly all the duties of the Municipal President, and on the arrival of the latter official he did not hand them over, but retained the executive work in his own hands, though he exercised but little of it. This led to the delays which I have already reported, and much public dissatisfaction was aroused, culminating on the 6th June in a long and hotly-worded leading article in the "Samoa Times" reflecting in a very improper manner upon the Chief Justice.

On the 14th June, upon his return from the tour in Savaii, the Chief Justice came to see me, and told me that he had decided for the future to leave entirely to the Municipal President all executive and advising functions, and to confine himself more strictly to his own duties as Judge and Arbiter.

This decision was entirely unexpected, and modifies the suggestions in my above-mentioned despatch.

It has already enabled matters to progress more satisfactorily, and as the Municipal President seems energetic and anxious to succeed, I anticipate the work of establishing the Government and initiating reforms will proceed more rapidly than heretofore, and if the capitation tax is paid in next week, which is still doubtful, any temporary financial assistance from the three Powers may be avoided.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

No. 100.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, July* 25, 1891.

I AM directed by the Marquis of Salisbury to acknowledge the receip[redacted]ur despatch of the 8th ultimo, reporting your proceedings in connection [redacted]he attitude assumed by Mataafa towards the Samoan Government, and I am t[redacted]rm you that your action is approved.

I am, &c.

(Signed) T. V. LI[redacted]R.

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* Not printed.

No. 101.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, July* 25, 1891.

I AM directed by the Marquis of Salisbury to convey to you his approval of your proceedings, as reported in your despatch of the 15th ultimo, with regard to the visit of the German war-ship "Sperber" to Apia, and to the suggestion which you made to Admiral Lord Charles Scott that a British man-of-war should, if possible, be dispatched for a short time to Samoan waters.

I am, &c.
(Signed) T. V. LISTER.

No. 102.

Verbal Communication made by Count Hatzfeldt, July 28, 1891.

THE Imperial Government are willing to consent to the foreign naval forces stationed in Samoa being, in case of need, called to support the Local Government, as suggested in the despatch from the Imperial German Consul communicated on the 17th July, under the condition that Her Majesty's and the United States' Government agree upon this matter. Although a real military action on the part of the men-of-war can only take place in consequence of special orders from their respective Governments, it seems to be desirable to take the necessary steps in order that a general authority may be given to the Naval Commanders to convey the Chief Justice and his officers, or on the request of the Chief Justice, who acts in concurrence with the three Consuls, to transport and to land the police forces of the Samoan Government to such places on the islands which are in a critical position.

In the case of Her Majesty's Government holding the same view in this question, the Imperial Government would be glad if Her Majesty's Government would prepare a draft of identic instructions to be given to the three Commanders of the naval forces in the Samoan waters, upon which instructions the Imperial Government could enter into negotiations with the United States' Government.

No. 103.

The Marquis of Salisbury to Mr. B. Haggard.

(Telegraphic.) *Foreign Office, July* 31, 1891.

YOUR despatch of the 22nd ultimo.

The Chief Justice's sanction must be obtained for every item of expenditure incurred by the Land Commissioners.

No. 104.

The Marquis of Salisbury to Sir E. Malet.

Sir, *Foreign Office, August* 1, 1891.

I TRANSMIT to your Excellency herewith a Memorandum, for communication to the German Government, inviting an expression of their views as to the course which should be followed in the matter of the expenses of the Samoan Land Commission, the Chief Justice and the Commissioners not taking the same views as to what constitute the "reasonable and necessary expenses of the Commission."

I am, &c.
(Signed) SALISBURY.

Inclosure in No. 104.

Memorandum.

MR. HAGGARD, the British Land Commissioner under the Samoan Act, reports under date of the 22nd June that he and his colleagues addressed a letter to the Chief Justice on the 30th May, requesting his sanction, which is required by section 2 of Article IV of the Final Act of the 15th June, 1889, to the following expenditure on behalf of the Land Commission :—

1. Hire of rooms.
2. Salary of Secretary.
3. Purchase of a safe.
4. Stamp and seal.
5. Salary of an interpreter.
6. Stationery.
7. Expenses of a Surveyor.
8. Office furniture.

The Chief Justice did not reply until the 19th June, when he sanctioned the expenses of rooms and of an interpreter, but disallowed the employment of a Secretary and the purchase of a safe, and did not allude to the other items.

Mr. Haggard represents that they are all absolutely necessary to the due performance of the duties of the Commission, and Her Majesty's Government are disposed to concur in this opinion.

They would be glad to learn the views of the German Government upon this point, and as to the course which it would be best to pursue to avoid all further unnecessary delay.

In the meantime, Mr. Haggard has been informed, by telegraph, that no expenditure must be incurred without the Chief Justice's sanction.

No. 105.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received August* 20.)

My Lord, *Apia, Samoa, June* 26, 1891.

I HAVE the honour to inform your Lordship that the Land Commissioners applied under section 2, Article IV, Berlin General Act, to the Chief Justice to sanction certain proposed expenditure set forth in the reply of the Chief Justice inclosed.

The Chief Justice approves the engaging of suitable rooms, and the appointment of an interpreter. But he gives his reasons for being legally unable to approve the purchase of a safe, office furniture and books, seal and stamp, and the engagement of a Secretary to perform the specific duties allotted to him by the Land Commission.

The Land Commissioners have not agreed upon a joint request to the Powers to sanction these latter items, but should they do so, I believe that the items are necessary. The safe and office furniture will sell well when the work of the Commission is over. A Secretary can be got for under 200*l.* a-year, and the services of the interpreter will only be needed occasionally.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

Inclosure in No. 105.

Reply of Chief Justice.

To the Land Commission.

Gentlemen, *Mulinuu, June* 19, 1891.

I HAVE received your letter of the 30th May last, by which you have informed me that inasmuch as section 2 of Article IV of the General Act of Berlin provided that reasonable and necessary expenses of the Land Commission for taking evidence should be paid by the Treaty Powers, such expenses to be approved by the Chief

Justice, the Commission had thought it advisable that certain items of expenses should be approved at this time:—

1. For the proper and necessary taking of evidence, suitable rooms were indispensable. The Commissioners propose to engage such rooms at a rental of not exceeding 30 dollars per month in gold. The rooms were such, and only such, as were needed for the work of the Commission, and the rental would be reasonable.

2. For the proper and necessary taking of evidence the Commission propose to appoint and engage a Secretary, at a salary of not exceeding 100 dollars per month in gold, whose duties should, amongst other things, be, under the direction of the Commission, to properly file and indorse all written evidence of title that might be received; to enter claims in dockets or registers; to number and arrange them in such orderly and systematic manner that each case, and all evidence in support thereof, might at all times be immediately accessible without confusion or delay; to care for and safely keep all papers belonging to the work of the Commission; to prepare and send out requisite notices to litigants; to record all verbal testimony received by the Commission, and to make any necessary copies thereof; to write out all reports required by sections 4, 5, 6, and 12; and to perform such other clerical duties as the Commission might require in accordance with the provisions of the Act.

This expense was necessary and reasonable, and additional clerical aid might hereafter be found also necessary.

3. An interpreter competent to translate the Samoan language in English and the reverse, where necessary for taking evidence, and for enabling Samoans to communicate with the Commissioners and their Secretary. The Commission propose to appoint an interpreter at a salary not exceeding 75 dollars per month in gold.

4. In view of the unsettled condition of affairs in Samoa, the large interests that were at stake, and the risk to valuable papers and evidences from fire or theft, the Commission considered that a safe costing not exceeding 150 dollars gold was a necessary and reasonable item of expense incident to taking and preserving evidence.

5. The seal and stamp of the Commission had been already purchased and paid for at an expense of 73 dol. 75 c. gold.

Other necessary and reasonable expenses, such as the service of a Surveyor, tables, chairs, stationery, &c., could not now be stated in exact terms.

You have, therefore, requested the approval of the items of expense above named.

Regarding, first, the engaging of suitable rooms at a rental of not exceeding 30 dollars per month, I find just to approve this item of expense; and I consider likewise the assistance of an interpreter to be necessary for taking evidence in cases where the Samoan language will be used, and I accordingly approve as reasonable the item of expense of not exceeding 75 dollars per month proposed by the Land Commission in this behalf during the time such assistance may be required.

According to section 2, Article IV, of the Berlin General Act, it does not rest with me to approve other expenses of the Land Commission than those relating to taking evidence and making surveys.

The duties which would be trusted to the Secretary proposed by the Land Commission appear to me almost exclusively not to be incident to either ef the said matters, and I consider, therefore, that the expenses for this purpose could not, in accordance with the provisions referred to, be approved by me legally.

While expressing the opinion that the assistance of a Secretary requested by the Commission would afford considerable advantage to the working of the Land Commission, I regret to be unable to approve the Commission's proposal in this part.

Finally, as to the question of purchase of safe, seal, and stamp, I am not enabled by reason of above-mentioned section 2, Article IV, legally to approve those expenses, inasmuch as they are not expenses for taking evidence or making surveys.

I have, &c.
(Signed) C. CEDERCRANTZ.

No. 106.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received August* 20.)

My Lord, *Apia, Samoa, July* 9, 1891.

I HAVE the honour to inclose a copy of a letter, dated the 1st July, addressed by the Land Commissioners to the three Consuls.

I agreed with my colleagues that it was our duty to endeavour to end the friction, which was becoming publicly known.

We accordingly sent the reply which is appended.

We had previously arranged that in case the Treaty Powers should decline to sanction the items of expenditure detailed in the letter from the Land Commissioners the Samoan Government should guarantee these expenses up to the sum of 1,000 dollars (200*l.*) to save all dispute afterwards.

I have now the honour to ask your Lordship to authorize me to pay these expenses, one-third amounting to not more than 66*l.* 13*s.* 4*d.*, and to continue the salary of the Secretary, and pay such further sums for stationery, furniture, &c., in the proportion of one-third, as may be unanimously approved by the three Consuls. I also request that, owing to the financial state of the Samoan Government at the present moment, such bills as I may draw on the Chief Clerk for the expenses of the Land Commission, pending your Lordship's reply, and not amounting in the aggregate to more than 66*l.* 13*s.* 4*d.*, may be duly honoured.

The Commission have appointed a British colonial solicitor as Secretary, and are now in full work.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

Inclosure 1 in No. 106.

Land Commissioners to the Consuls of the Treaty Powers, Samoa.

Gentlemen, *Apia, Samoa, July* 1, 1891.

THE Samoan Land Commission take this method of calling your attention officially to certain matters that are seriously delaying their work, which matters have heretofore been informally and individually made known to you.

In the latter part of May last the Commission was fully organized, issued the Notices required by the Berlin Act, prepared Forms and Rules of Procedure, and was in readiness to proceed rapidly with the performance of its duties, which, in the Conference wherein the Treaty was framed, were described by Count Bismarck as being perhaps the most important of all the questions to be dealt with. Fully realizing the importance and difficulty of the work ourselves, we felt no doubt that all authorities in Samoa would cordially co-operate in every way in facilitating our labours. In order to avoid all possible opportunity for future misunderstanding, and to place ourselves in desirable and necessary kindly communication with the Chief Justice of Samoa, we, on the morning of the 30th May, in writing, informed him, amongst other things, that the services of a Secretary to perform the ordinary clerical duties incident to the taking of evidence by the Commission were necessary, that we proposed to engage one at a salary of not exceeding 100 dollars per month in gold; that this expense was reasonable and necessary for our work; that in view of the unsettled condition of affairs in Samoa, the large interests that were at stake, and the risk to valuable papers and evidences of title from fire or theft, we considered that a safe, costing not exceeding 150 dollars gold, was a necessary and reasonable item of expense incident to taking and preserving evidence; that other necessary items of expense, such as the services of a Surveyor, tables, chairs, stationery, &c., could not be stated in exact terms, and asked his approval of such expenses.

On the same day he was informed verbally by one of the Commissioners that an early reply was desired in order that our work might move on at once. Having written the letter above stated, our work was necessarily in abeyance until a reply should be received. More than three weeks elapsed without reply or acknowledgment of the receipt of our letter, or suggestion of any desire for conference upon the subject-matter thereof; but on the evening of Saturday, the 20th June, the Chief Justice in writing informed us that the duties of a Secretary and the purchase of a safe were not incident to taking evidence or surveying, and that therefore he could

not approve those items of expense. As to the other necessary items for service of a Surveyor, tables, chairs, stationery, &c., he made no reply whatever, nor did he in any way inform us what, in his judgment, was the meaning of the words of the Act, "the reasonable and necessary expenses of the Commission for taking evidence." This decision left the Commission unable to proceed, even after the long delay.

One firm alone, as its managers inform us, had over 1,300 deeds to pass into our hands in accordance with the provisions of the Act, and many hundred deeds, we reliably learn, are to come in from other sources.

With no existing system of registration, the loss of these deeds would produce inextricable confusion and great financial loss, and render any satisfactory conclusion of our labours impossible. Without the services of a Secretary, our time and strength would be frittered away upon mere clerical drudgery, and our work thereby indefinitely prolonged and the expense greatly increased. In fact, the delay that has already occurred has caused nearly or quite as much expense in the salary of the Commissioners as the whole amount of the items referred to. Claimants offer and desire now to deposit their deeds, but refuse so to do upon learning that we have no safe to keep them in. We also decline to take the responsibility of receiving such a mass of valuable evidences of title with no facilities for arranging, digesting, registering, indexing, or preserving them. Abundant work to occupy ourselves and a Secretary all the time is at hand, and we are anxious and ready to be doing it. It is for the interest of all friends of good government and prosperity in these islands that the land question, which lies at the basis of everything, should be settled as soon as possible, and it would be extremely unfortunate to have that settlement delayed until the three Treaty Powers would be communicated with over a petty question of a trifling expense.

At the suggestion of one of your own number (the Imperial German Acting Consul, M. Schmidt), and in order to do all that we can to cause the work to move on at once, we write to you, as the Representatives of the three Powers under whose Commision we are acting, asking that you will, in behalf of your respective Governments, arrange at once, in such manner as you deem expedient, for the prompt payment, when due, of the necessary and reasonable expenses of the Commission in the work required by the Act, viz.: Rooms rent for hearings, not exceeding 30 dollars per month; Secretary's salary, not exceeding 100 dollars per month; interpreter's salary, not exceeding 75 dollars per month; purchase of safe, not exceeding 150 dollars; cost of publishing Notices, printing Rules and Forms, stationery, seal, and stamp, tables, chairs, &c.; and services of a Surveyor.

We make no criticism upon the position, conduct, or ruling of the Chief Justice on these matters, but this letter is not in any way to be construed as an acquiescence therein.

In conclusion, it should be stated that the American Commissioner and the American Consul-General have already arranged as to the one-third of the expenses in question that should be paid by the United States, and that Mr. Ide joins in this request solely that there may be uniformity of action.

We are, &c.

(Signed) HENRY C. IDE,
BAZETT M. HAGGARD,
C. EGGERT,
} *Commissioners.*

Inclosure 2 in No. 106.

The Consuls of the Treaty Powers, Samoa, to Land Commissioners.

Gentlemen, *Apia, Samoa, July* 2, 1891.

WE have the honour to acknowledge the receipt of your letter dated the 1st July, and we have to inform you that arrangements have been made which authorize you to incur expenses up to 1,000 dollars for the purposes enumerated by you.

We have, &c.

(Signed) HAROLD M. SEWALL.
T. B. CUSACK-SMITH.
SCHMIDT.

No. 107.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received August 20.)

My Lord, *Apia, Samoa, July 9*, 1891.

WITH reference to my despatch of the 8th June, in which I reported that the High Chief Mataafa was allowed by the Samoan Government to return to Malié on parole for three weeks, I have now the honour to report that on the 18th June I received a letter from Mataafa, who signed himself by the kingly title of "Malietoa Mataafa," informing me that he would break his parole. This he has done, and he is still at Malié.

His followers now number, it is said, 600 armed men, but I do not believe that most of them have any ammunition.

On the 2nd July the Consuls received from the Samoan Government a letter signed by Baron von Senfft, Adviser to the King, of which I inclose a copy.

The Consuls thereupon had a long interview with Baron von Senfft, and agreed to issue a Proclamation in accordance with the request of the Samoan Government.

I append copy of the Proclamation, with translation.

With regard to the second request of the Samoan Government that the Treaty Powers should send men-of-war, and invest the Consuls with power to use them according to their independent judgment in every case, I expressed myself, in the absence of further instructions, as opposed to such a course, and urged the Samoan Government to face the crisis, and not to rely upon men-of-war, which, in my opinion, can do no good, and may do much harm.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

Inclosure 1 in No. 107.

Baron von Senfft to the Consuls of the Treaty Powers, Samoa.

To the Consular Board, Apia.

Gentlemen, *Apia, July 2*, 1891.

BY letters dated from the 6th June, 1891, I had the honour to inform you that the Chief Mataafa, in leaving Apia on the 4th June, promised the Government that he would stay quietly in Malié, and return here after three weeks.

In accordance with my verbal communication of yesterday, I now beg to explain to you that on the 8th June Mataafa sent me a letter announcing that he would not come back, but stay in Malié, because he heard from the Government members, "the Government intended to arrest and punish him with death or exile." This letter not having been answered, the mentioned three weeks expired on Thursday, the 25th June, but Mataafa did not return till to-day.*

Before already the Government received intelligence of steps he took being flatly inconsistent with his assurance he would hold only his Malolo—that means rest—in Malié. He sent messages to numerous places of the islands, calling upon the people to come down to him. Several places refused to follow this invitation; nevertheless, according to the last news, the Government estimates the people surrounding Mataafa at present to be 200 approximatively without women and children, and about one-half of them are reported to be provided with rifles. They came from Poloa or Tutuila, from the Aleipata district, from Lepa and Fagaloa, and most of them came down on the last week. Just to-day the Manono people are reported to be going to Malié also.

With reference to the meaning of this gathering, the Government is informed that Mataafa adopted all manners which are by the customs of the Samoan people attached to the Royalty.

In face of such circumstances the Government regards Mataafa's staying in Malié as an attempt either to overturn King Malietoa's Government, or at least to form a second Government in Malié, being independent of the present one. In the former case the provision made in Article I of the Berlin Treaty is violated, in the latter the order, and even the peace within the islands, are endangered continually.

* The meaning is: "has not returned up till to-day."—T. B. CUSACK-SMITH.

The Government, therefore, feels obliged to check Mataafa's going on as soon as possible. The situation is complicated in no small degree by the difficulty to reach this purpose without bringing on the same danger which we wish to prevent —that means the civil war.

The Government intends to exhaust at first all peaceable means which may put an end to the present trouble. If we do not succeed in this way we are compelled to use all force we should be able to get in order to knock down the rebellion at once.

In both cases the Government hopes to find the assistance of the three Treaty Powers and their Representatives here. The moral impression of their concordant action will increase [of] our peaceable proceedings.

Their united arms will in case of necessity strengthen our force and frighten the people to begin the war.*

By order of His Afroga the King Malietoa, I have the honour to forward to you two requests of the Samoan Government.

At first I ask you to issue a common Proclamation, saying that Malietoa Laupepa only, and nobody else, is recognized as King of Samoa by the Treaty Powers, and that these Powers will regard as their enemy whoever tries to undermine the present Government, stating besides that all rumours are lies which have lately spread that one of the Powers supports Mataafa.

If you comply with this request, the Samoan Government will issue a Proclamation saying that all people who are in Malié being not at home there have at once to return to their own places, and forbidding all other people to go down to Malié.

Should these two Proclamations be successless, the Government will consider about further steps, and will always be thankful to hear your opinion.

My second charge is to request at any rate the assistance of your Governments by sending men-of-war, and by vesting you with the power to use them when required by the Samoan Government according to your independent judgment in every case.

I ask you, Gentlemen, to kindly forward this request to your Governments by the telegraph.

I have, &c.
(Signed) SENFFT VON PILSACH.

Inclosure 2 in No. 107.

Proclamation.

(Translation.)

Know all Men!

We, the Representatives of the three Great Governments:

WE make it known to all Samoans as follows:—

There is one Government for all Samoa and one King. He is Malietoa Laupepa. These are the words of the Treaty. The three Great Governments will not allow this Treaty to be transgressed.

The Government of Malietoa Laupepa is strong, because the three Great Governments have made it.

Those who oppose it work in vain, and all opposition will be overcome.

Some evil-disposed persons have spread reports that one of the Great Governments wish a certain Chief to be King.

This is false.

The three Great Governments are as one.

They are friends of Samoa, but enemies of all who make trouble here.

We therefore warn all Samoans to obey the Government, and to obey quickly.

(Signed) HAROLD M. SEWALL.
T. B. CUSACK-SMITH.
SCHMIDT.

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* The meaning is: "from beginning the war."—T. B. CUSACK-SMITH.

No. 108.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received August* 20.)

My Lord, *Apia, Samoa, July* 10, 1891.

I HAVE the honour to refer as briefly as possible to the request of the Samoan Government contained in a letter from Baron von Senfft, which is an Inclosure No. 1 in my despatch of the 9th July.

I have not forwarded the request by telegraph, firstly, because I feared to convey an impression of a scare in Samoa which does not exist; secondly, because the Chief Justice had already made a different proposal with regard to war-ships in my despatch of the 23rd May; thirdly, because Consul-General Sewall has made a proposal for a joint naval demonstration, and, lastly, because I am still of the opinion set forth in my despatch of the 21st May.

The position at present in Samoa is that some 7 miles from Apia at a small village is Mataafa, with a following of not more than 500 to 600 men, with little ammunition and many worthless arms, and some good ones.

Mataafa gives repeated assurances that he intends no hostilities. These, I believe, because he has not rallied sufficient forces, and has so little ammunition.

In Apia is the Government very slow to act, and without any apparently definite aims as to the future government of Samoa.

The Government have enrolled only thirty-nine policemen, in spite of the proximity of Mataafa, and the certainty that in the end he must be dealt with, and either killed or imprisoned.

The Government cling to the idea that three men-of-war representing the Treaty Powers should bombard the village of Malié, land sailors, and execute Mataafa after defeating his followers.

I am strongly opposed to this course, and I venture, with all submission to your Lordship, to briefly state my reasons:—

1. Captain Grenfell, of Her Majesty's ship "Cordelia," and Captain Foss, of the German war-ship "Sperber," have each, from practical observations on the spot, expressed to me the impracticableness of landing any but an overwhelming force without grave risk, though it is easy to shell any village from the sea.

2. Any hostile acts by the ships and forces of the Treaty Powers would endanger the lives and property of the white residents by retaliations on the part of the Samoans.

3. It is unfair to put upon the Consuls the responsibility of risking the lives of the officers and men of their respective nations when such responsibility properly belongs to the Samoan Government.

4. In my opinion, after careful consideration, no interference by the ships of the Treaty Powers is advisable or necessary.

5. That the revolt of Mataafa has arisen mainly from the delays in the development of the Samoan Government, and that if the Samoan Government would now, while watching Mataafa, proceed vigorously with the work of appointing the necessary white residents, Judges, native Judges, constabulary, tax-collectors, and other officials all over the islands, nearly all the present followers of Mataafa would desert him, and return to protect their own interests in their particular districts. I have urged this view upon the King's Adviser, and Baron von Senfft promised to consider it.

It is frequently asserted that the moral effect of the presence of a man-of-war upon the Samoans is very great. But from observation, I believe that beyond welcoming a war-ship as a splendid market the effect upon the natives is infinitesimal.

The Government have, I am glad to say, received a small part of the capitation tax, and have money enough to enroll a sufficient force of permanent constabulary to deal without extraneous assistance with the revolt of Mataafa, should they decide to do so.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

No. 109.

Mr. B. Haggard to the Marquis of Salisbury.—(*Received August* 20.)

My Lord, *Apia, Samoa, July* 16, 1891.

I HAVE the honour to inform you that we engaged a Secretary for the Commission, and he commenced his duties on the 6th July. His name is Robert Skeen; he is a solicitor, a member of the New Zealand branch of the legal profession. As I have informed your Lordship, great difficulties were placed in the way of the Commissioners proceeding with their work by the action of the Chief Justice of Samoa; but the Consuls of the three Signatory Powers, seeing the importance that the Commission should proceed with its labours, guaranteed an expenditure up to 1,000 dollars for the necessary expenses. We consequently secured a Secretary and purchased one safe, and obtained (from the person from whom we made the purchase) the loan of another for as long a time as we required it. We have been busy in taking in the claims and title-deeds to the lands, examining and registering them, and have been fully occupied in deciding questions arising thereon.

I have, &c.

(Signed) BAZETT M. HAGGARD.

No. 110.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received August* 21.)

My Lord, *Samoa, July* 19, 1891.

I HAVE the honour to report that last night, after the mail for England had closed, I received the inclosed urgent letter from the Samoan Government, which I regret that I have not time to copy, and am therefore obliged to inclose the original.

This morning the Adviser to the King, Baron von Senfft, together with the German Vice-Consul, called upon me, and urged me to support the request of the Samoan Government contained in the inclosure.

I pointed out to Baron von Senfft that his letter was written in rather more of an alarmist strain than the situation warranted.

I then made the following proposition, which immediately received the approval of Baron von Senfft and the German Vice-Consul:—

That as the bad season begins in January, the Treaty Powers should issue instructions for the assembling at Samoa on the earliest possible date of a joint squadron, consisting of three war-ships of each nation, for the following definite purpose:

The squadron on arrival at Apia to report to the Consuls, who will thereupon issue to all Samoa a Proclamation announcing that, owing to the disobedience of Mataafa and certain other Chiefs, the Treaty Powers have sent their ships to Samoa to insist upon implicit obedience upon the part of all Samoans to the Samoan Government and the provisions of the Berlin Treaty.

That after this Proclamation has been carefully distributed throughout all Samoa the squadron shall be formed into three divisions, each consisting of one ship of each Power. That one division shall go to Tutuila, one to Savaii, and one round Upolu, and that one of the Consuls shall go with each division.

That the head-quarters of each district shall be visited in a friendly way, and the Chiefs informed by the Consul and the Captains that the Treaty Powers insist upon absolute loyalty and obedience to the Samoan Government, and that each Chief is required to attend a great meeting in Apia on a given date, bringing with him all guns, rifles, and ammunition in the possession of himself and his people.

That every rifle, gun, and all ammunition so produced will be paid for at a fair price by the Samoan Government, and sent away from Samoa to secure peace in the future.

That if Mataafa and the Chiefs who have been supporting him give themselves up to the Samoan Government before the date of such meeting, or are surrendered by the Chiefs at the great meeting alluded to above, they will be tried by the Supreme Court of Samoa and punished severely, but not with death; but that

if Mataafa on the date of the great meeting is still at large, the squadron will arrest him and his Chiefs, and punish them as rebels with death or deportation.

Such definite and identic instructions are essential to the success of the scheme, which includes not only the assertion of the rights and prestige of the Treaty Powers, and the crushing of the present rebellion, but also the complete disarmament of all the Samoans, and half-castes, which would be in itself an effective guarantee against future rebellions, but also obviate the necessity of any further interference by war-ships of the Treaty Powers.

The mail-schooner has been delayed on purpose to take the despatches of the Consuls on this subject, and I have been obliged to write somewhat hurriedly.

I should add that only in the unlikely event of Mataafa being still at large after the date of the proposed great meeting would it be necessary for the squadron to take warlike measures against the rebels, and no opposition would be possible against the overwhelming forces of the Treaty Powers.

Telegraphic reply is respectfully requested.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

Inclosure in No. 110.

To the Consular Board, Apia.

Gentlemen, *Apia, July* 17, 1891.

I HAVE the honour to inform you that in respect of Mataafa and his supporters staying in Malié, the Proclamations issued by you and by King Malietoa a fortnight ago did not succeed.

Only the people of Manono left the place some days ago, but not at all in order to return to their district. They went at first to Leulumaega, and called upon the people to join Mataafa, and to go with him in the wars against the present King and his Government. At present, they continue to visit the places of the Aana district, addressing the same exhortations to the people.

Even if these trials do not obtain a greater success than they are reported to have obtained hitherto, King Malietoa and his advisers are unable to fulfil the task they are trusted with by the three Treaty Powers, inasmuch as they are not enabled to suppress the rebellion without entering upon a civil war.

Our different reporters estimate the number of those of Mataafa's followers who are furnished with arms at about 600, including the Manono people.

By using his own forces, that means by sending a sufficient division of Samoans to Malié in order to seize Mataafa and to scatter his partizans, the Government would bring on the civil war undoubtedly, and frustrate the carrying out of the Berlin Treaty for long years, perhaps for ever.

On the other hand, we shall be compelled sooner or later to take such steps, if not, after the kind assistance you have afforded to the Government until now, we also obtain the assistance of your respective Governments for the purpose of securing the leaders of the rebellion, and trying them as criminals.

That this could not be done Mataafa's messengers were openly boasting some weeks ago already.

The members of the Government are well aware that it belongs to their duties to furnish themselves with a force of police sufficient for their safeguard, and to establish within the various districts and administrations powerful enough for the execution of the laws. But there is no possibility of undertaking improvements with hope of success while the authority of the Government is openly violated. Besides, all these necessary arrangements cannot be made at once.

White officials, for instance, can be appointed in the districts only gradually. If there are appointed many at the same time, the Samoan people will feel more dissatisfied than now.

According to reliable reports, already those salaries of white officials which are fixed in the Berlin Treaty cause much trouble amongst the natives.

The value they set on the benefits of the civilization which we are charged to bring to them is not very high.

For the Treaty Powers there exists the alternative only to give up the protection of their respective interests or interested citizens in these islands, or to maintain the provisions of their agreement, even against the wishes of the Samoans.

I think you will find that the latter purpose will be reached by the co-operation of a squadron, consisting of men-of-war of the Treaty Powers. Very likely its demonstrative appearance will secure the punishment of the rebels, without any danger of war.

This first and most urgent question having been settled, the authority of King Malietoa's Government will be re-established. Perhaps the remaining of about three men-of-war in the waters of the islands will be required for a longer time. At any rate, it seems that only in this way the development of the islands will go on under the provisions of the Berlin Treaty.

By authorization of His Afroga the King Malietoa [*sic*], I have the honour to request your favourable consideration of the foregoing views, and the communication of them to your Governments.

I have, &c.
(Signed) SENFFT VON PILSACH,
President of the Municipal Council.

No. 111.

Foreign Office to Mr. B. Haggard.

Sir, *Foreign Office, August* 22, 1891.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch of the 16th ultimo.

I am to inform you, in reply, that your proceedings as therein reported are approved, and that instructions respecting the payment of the reasonable and necessary expenses of the Samoan Land Commission will be sent to Her Majesty's Consul at Apia.

I am, &c.
(Signed) T. H. SANDERSON.

No. 112.

The Marquis of Salisbury to Consul Cusack-Smith.

(Telegraphic.) *Foreign Office, August* 23, 1891.

I APPROVE your proceedings and your advice to Samoan Government, as reported in your despatches of the 9th and 10th ultimo.

No. 113.

The Marquis of Salisbury to Sir E. Malet.

Sir, *Foreign Office, August* 24, 1891.

WITH reference to my despatch of the 1st August, respecting the expenses of the Samoan Land Commission, I transmit herewith copies of two despatches from Her Majesty's Consul in Samoa upon the same subject.*

It will be seen that the reason why the Chief Justice declines to sanction certain items of expenditure recommended by the Land Commissioners is, that he interprets the wording of section 2 of Article IV of the Samoan Act in a very literal sense, and considers himself only authorized to sanction the expenditure actually requisite "for taking evidence and making surveys."

Under these circumstances, the Commissioners, in order that they may proceed with their labours without further delay, have requested the Consuls of the three Treaty Powers to make arrangements for the payment, when due, of certain specified expenditure, which they consider necessary for the proper performance of their duties.

The Consuls have acceded to their request, and authorized expenditure up to a limit of 1,000 dollars.

Her Majesty's Consul now requests authority to pay a third of these expenses,

* Nos. 105 and 106.

amounting to not more than 66*l.* 13*s.* 4*d.*, and to continue the salary of the Secretary to the Commission, and to pay such further sums for stationery, furniture, &c., in the proportion of one-third, as may be unanimously approved by the three Consuls.

Section 2 of Article IV of the Samoan Final Act provides that "the reasonable and necessary expenses of the Commission" shall be paid, one-third by each of the Treaty Powers.

Her Majesty's Government, and, it is understood, the German Government, are both of opinion that the present demands of the Land Commissioners are reasonable and necessary; but before moving in the matter, it had been agreed to await an expression of opinion from the United States' Government.

But it appears from the joint letter of the three Commissioners to the Consuls that the United States' Representatives in Samoa are already fully authorized to defray their share of the expenses in question, and that the United States' Land Commissioner has only joined in the appeal to the Consuls to insure uniformity of action with his colleagues. Under these circumstances, further delay seems unnecessary.

I have to request, therefore, that your Excellency will communicate copies of Mr. Cusack-Smith's despatches to the German Government, and inform them that Her Majesty's Government propose, if they concur and will similarly instruct their own Consul, to telegraph to Mr. Cusack-Smith that his proceedings, and those of Mr. Haggard, are approved, and that the payment of one-third of the expenses specified in his despatches is sanctioned.

You should ask the German Government for an early answer.

I am, &c.
(Signed) SALISBURY.

No. 114.

Admiralty to Foreign Office.—(*Received August* 25.)

Sir, *Admiralty, August* 24, 1891.

I AM commanded by my Lords Commissioners of the Admiralty to transmit herewith, for the information of the Secretary of State, a copy of a letter from the Captain of Her Majesty's ship "Cordelia," together with copies of its inclosures, respecting his proceedings at Samoa in April last.

I am, &c.
(Signed) R. D. AWDRY.

Inclosure 1 in No. 114.

Captain Grenfell to Rear-Admiral Lord C. Scott.

My Lord, "*Cordelia,*" *at Apia, Samoa, May* 11, 1891.

IN continuation of my letter of proceedings, I have the honour to report that, at 8 A.M. on the 29th April, I saluted the Samoan flag with twenty-one guns.

2. Mr. T. B. Cusack-Smith, Her Majesty's Consul, coming on board the same morning, was saluted with seven guns, after which he accompanied myself and a party of officers on a visit to King Malietoa, who received us in State, all his high Chiefs being present, and expressed his gratitude for the salute to the Samoan flag, and his regret at not being able to return it, having no guns, and begged me to consider it done.

3. Under the circumstances I did so, and invited him to come on board.

4. This he did on the 1st May, the Chiefs accompanying him. I received him with Royal honours, and saluted him with twenty-one guns on coming on board and on leaving. He expressed himself much pleased.

5. I am forwarding a translation of the King's speech which he made at the reception.

6. On the 4th May the Acting German Consul came on board, and was saluted with seven guns.

7. The quarterly gunnery and torpedo exercises have been partly carried out here.

8. The health of the ship's company is good, and special leave has been given.

9. There is a rumour here that a successor is to be appointed to replace King Malietoa. This is put down to the Roman Catholics here, who wish Mataafa to be King, as he is a Roman Catholic, but there is little or no truth in it, I believe.

10. The United States' ship "Charleston" has been ordered here, and her coming is connected by some with the rumour.

11. The Chief Justice sounded me through Her Britannic Majesty's Consul as to whether I would take him to the Island of Tutuila, and lend him my moral support in the arrest of two Chiefs who will not obey his summons to appear before him here. I replied that I would not do so, as I did not consider that Her Majesty's ships were intended to be used in enforcing any laws the Samoans might from time to time make, and that, as to moral support, I was not disposed to place the ship in the ridiculous position of not being prepared to enforce any demand made from under her flag.

The Chief Justice, I believe, concurred, and has not made the request.

12. The case is this: two petty Chiefs have preferred charges of misgovernment against the Governor nominated by Malietoa at Léoné Bay (his name is Manga), and the general opinion is that he has misgoverned, and the Chief Justice has ordered the two Chiefs to Apia to go into the case here; but they will not obey the summons, being afraid to surrender.

13. There is a temporary assemblage of Chiefs who carry on the Government here, but the Courts are not opened yet. Of the Land Commissioners, only the English one (Mr. Haggard) has yet arrived. The American is expected soon, but the German is ill, and his arrival is indefinite.

14. I have not been able to get the translation of the King's speech for this mail, but will send it from Fiji.

I have, &c.
(Signed) H. T. GRENFELL.

Inclosure 2 in No. 114.

Consul Cusack-Smith to Rear-Admiral Lord C. Scott.

My Lord, *Samoa, June* 8, 1891.

AT the request of Captain Grenfell, I have the honour to inclose a translated copy of the speech of King Malietoa on the occasion of his reception of the Captain and officers of Her Majesty's ship "Cordelia" at Apia.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

Inclosure 3 in No. 114.

King Malietoa's Speech at the Reception of Captain Grenfell, Consul Cusack-Smith, and the Officers of Her Majesty's ship "Cordelia."

THE King began by expressing gratification at the visit of Her Britannic Majesty's ship of war.

"We are very pleased," he said, "to welcome his Excellency the Captain of Her Majesty's ship of war and his officers, and we thank them and his Excellency Her Majesty's Consul for the honour they do us by this morning's visit to our Government House.

"We appreciate very highly the honour done to the Samoan flag when it was hoisted above the British flag this morning, and saluted with a Royal salute. We have always looked up to Her Majesty Queen Victoria as a most gracious and a true friend of Samoa. Her good-will has been proved many times in days past when her Representatives, Consular and Naval, have given counsel and help asked for in time of need. We are sensible of Her Majesty's interest in our welfare, shown in the Berlin General Act relating to Samoa, recently agreed upon by Her Majesty's Representatives in conjunction with the Representatives of the German Emperor and his Government, and of the President and Government of the United States, which gives us hope of a peaceful and permanent settlement of the many difficulties that have harassed us for many years.

"Queen Victoria's manifest interest in our welfare has been regarded so much as a matter of certainty that we have never believed what some ignorant persons, remarking on the non-appearance of a British ship of war since the signing of the Treaty till this time, have told us, viz., that the British Government has ceased to care anything about us. But we are greatly encouraged by this visit of Her Majesty's ship, which is a visible token of her gracious favour and continued interest in this undoubtedly insignificant Kingdom of Samoa. We are very grateful to learn that you have come here by Her Majesty's command to show respect to the Samoan Government, and to salute our flag.

"We are sorry that we have no arms and no cannon; we have only the will to show our respect, without the means; so that we cannot return your salute.

"We also wish to express our gratitude to his Excellency Her Britannic Majesty's Consul for Samoa for his many good offices on our behalf, and his many endeavours to help us by every means in his power to carry out the peaceful and just administration of these islands.

"To him, and to his Excellency the Captain of Her Majesty's ship and his officers, we tender our hearty thanks for the honour of this visit, and our wishes that their stay amongst us may be as long and as pleasant as possible.

No. 115.

Sir E. Malet to the Marquis of Salisbury.—(*Received September* 7.)

My Lord, *Berlin, September* 4, 1891.

I HAVE the honour to inclose a translation of a note which I have received from the Imperial Minister for Foreign Affairs respecting the payment of expenses incurred by the Samoa Land Commission.

I have, &c.
(Signed) EDWARD B. MALET.

Inclosure in No. 115.

Baron Marschall to Sir E. Malet.

(Translation.) *Ministry for Foreign Affairs, Berlin, September* 1, 1891.

THE Undersigned has the honour to inform his Excellency Sir Edward Malet, with reference to his note of the 26th ultimo, that the Imperial Government are prepared to give additional powers to their Representative in Samoa to advance the third part of the sum of 1,000 dollars, so as temporarily to defray the necessary disbursements of the Land Commission.

With a view to insuring the greatest possible economy, it would appear to be desirable in future to leave to the Chief Justice the decision as to the necessity of the disbursements to be made by the Land Commission in accordance with Article IV, section 2, of the Samoan Act. It would then only be necessary for the Representatives of the Treaty Powers to request the Chief Justice to give such an interpretation to the section in question that not only the expenses of collecting evidence and of taking surveys, but also all other necessary and useful expenditure of the Land Commission, should be borne by the Treaty Powers in the proportion of one-third each.

The Imperial Government would be much obliged if Her Majesty's Government would give a speedy reply as to their opinion in this matter.

The Undersigned avails himself, &c.

(Signed) MARSCHALL.

No. 116.

The Marquis of Salisbury to Consul Cusack-Smith.

(Telegraphic.) *Foreign Office, September* 8, 1891.

YOUR despatches of the 26th June and 9th July: Land Commission.

Proceedings of Mr. Haggard and yourself are approved. Payment of one-third of expenses specified is sanctioned.

Instructions follow.

No. 117.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, September* 8, 1891.

I AM directed by the Marquis of Salisbury to state to you that he has carefully considered your despatches of the 26th June and 9th July last, in regard to the payment of the expenses entailed by the work of the Land Commission in Samoa.

It appears from the letter which the Land Commissioners addressed to the Consuls of the three Treaty Powers on the 1st July last,* that the United States' Representative in Samoa is already fully authorized to defray one-third of the expenses in question, and that the United States' Land Commission joined in the appeal to the Consuls only to insure uniformity of action with his colleagues.

Lord Salisbury has ascertained that the German Government, on their part, are prepared to give additional powers to their Representative in Samoa to advance their share of the expenses.

Lord Salisbury, therefore, authorizes you to advance one-third of the sum of 1,000 dollars as the share contributed by Her Majesty's Government towards defraying the immediate expenses of the Land Commission, as specified in your above-mentioned despatches.

You will reimburse yourself by drawing bills on the Chief Clerk of this Office up to an amount not exceeding 66*l.* 13*s.* 4*d.*

The German Government point out that, in order to insure strict economy, it would be advisable that the Chief Justice of Samoa should continue to decide as to the necessity for the disbursements to be made by the Land Commission in accordance with the provisions of section 2, Article IV, of the Final Act. In order to prevent any fresh difficulties arising, they suggest that the Representatives of the three Treaty Powers in Samoa should request the Chief Justice to give such an interpretation to the section in question as will provide that not only the expenses of collecting evidence and of taking surveys, but also all other necessary and useful expenditure of the Land Commission, shall be borne by the Treaty Powers in the proportion of one-third each.

In this view of the case Lord Salisbury entirely concurs; and you will accordingly be so good as to make, in concert with your colleagues, a communication in the above sense to the Chief Justice and to the British Land Commissioner.

I am to add that your proceedings and those of Mr. Haggard in this matter are approved.

I am, &c.

(Signed) T. H. SANDERSON.

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* See Inclosure 1 in No. 106.

No. 118.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received September* 21.)

My Lord, *Samoa, August* 5, 1891.

I HAVE the honour to inform your Lordship that Mr. H. M. Sewall, United States' Consul-General in Samoa, left for America on four months' leave on the 21st July.

Vice-Consul Blacklock is in charge during his absence.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

No. 119.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received September* 21.)

(Extract.) *Samoa, August* 15, 1891.

I HAVE the honour to report that a certain amount of friction has arisen over the settlement under section 4, Article VI, of the Berlin Treaty, as to what is to be the recognized equivalent of the United States' dollar in the currencies.

The Samoan Government has wisely decided that the gold currencies of America and Great Britain shall be admitted as equal in value.

The silver money of the United States and Great Britain shall be the only silver currencies admitted.

All other currencies shall be expelled from Samoa.

Baron von Senfft, the Adviser to the King, refuses to permit this decision of the Samoan Government to be considered law, but the Samoan Government have up to now stood firm.

No doubt the question will be settled before I can write again.

No. 120.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received September* 21.)

My Lord, *Samoa, August* 15, 1891.

I HAVE the honour to report the arrival, on the 7th August, of the United States' war-ship "Iroquois," Commander Read, which, with the German "Sperber," will probably remain some time.

I do not think that Captain Read has any orders relative to the revolt of Mataafa; but that owing to Consul-General Sewall's despatches the United States' Government have dispatched the vessel to Samoa.

The situation remains unchanged, except that the Municipal President, in his capacity of Adviser to the King, has assumed the position of Dictator to the Samoan Government.

The Samoan Government have resented this, and there is no doubt that his future influence in Samoa will be greatly lessened.

To guide the Samoans it is absolutely necessary to earn their confidence, and study in all things their ways and habits, which are deeply rooted in their nature.

I fear that the present form of Government in Samoa cannot continue long, as the two white officials have little authority with the Samoans, and although the Chief Justice arrived in December 1890, and the Adviser to the King in April last, it is now close on September, and practically nothing has been done to put an end to the disorder prevailing in Samoa.

Not one law has been passed.

The Chief Justice informally announced that he was going to Fiji on the 7th August, despite informal protests from all the Consuls.

He proposed to visit Sydney, and be absent three months frrom Samoa, on what was purely a pleasure trip. There is no provision in the Treaty for any of his duties being performed unless his office is vacant. He only sent a message to the

captain of the steamer half-an-hour after its usual time of starting that he was not coming on board.

The steamer had been detained one hour expressly for the Chief Justice's convenience.

He still says that he will go to Fiji by the next steamer or by the first man-of-war that will take him.

His absence during the present unsettled state of affairs, with Mataafa's revolt still to be coped with, the currency still to be settled, and references from the Land Commission inevitable, to say nothing of the shutting up of the Supreme Court, which was not opened for hearing until the 15th July, would add enormously to the difficulties of the situation.

The Samoans talk openly of refusing "to pay the enormous salaries of the white men as soon as the three Powers cease to do so."

I should be very glad to be able to express civilly to the Chief Justice, on behalf of Her Majesty's Government, the hope that he will not absent himself from his post until the three Powers have agreed as to how his duties are to be carried on in his absence.

One vigorous official, in the place of the two who are bound to have continual friction between them, could in a few months, under the existing Treaty, with very slight modifications, do much to establish a firm and popular Government in Samoa, but the official must understand the Samoans, and know all the difficulties of the place.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 121.

The Marquis of Salisbury to Consul Cusack-Smith.

(Telegraphic.) *Foreign Office, September* 26, 1891.

THE Governments of the United States and of Germany have rejected the proposals contained in your despatch of the 19th July.

No. 122.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received October 16.)

My Lord, *Samoa, August* 31, 1891.

WITH further reference to my despatch of the 15th instant, I have the honour to inform your Lordship that although the currency question is still awaiting final settlement, yet satisfactory progress has been made.

On the 12th August the Municipal Council passed a Resolution adopting the rate of exchange for gold coins fixed by the Consuls in May 1890, and admitting American, Chilean, British, and German silver, which, however, was only to be legal tender up to the amount of 10 dollars.

This Resolution would have enabled the German silver mark to flood the country, as it has done in Tonga, to the great inconvenience of all British traders.

I therefore proposed the following amendment at the Consular Board, and induced my German colleague to give it his support, and the Consuls passed it unanimously:—

"That the currency in use and the rates of exchange be for the present—

"The United States' gold coinage.

"The British gold coinage; the sovereign to be equal to 4 dol. 86 c. United States' coin.

"The German gold coinage; the 20-mark piece to be equal to 4 dol. 76 c. United States' coin.

"Only United States' silver, and Chilean at the rate of 7 dollars to the 5 dollars United States' coin, to be accepted, and without limit."

That this met the difficulty, for the time being at all events, is proved by the fact that the Municipal Council, with the sole exception of the President, were unanimous in adopting the amendment in lieu of their own Resolution.

This rate of exchange is only for the purposes of all taxes and duties, &c., in the Municipality, and does not interfere with the right of traders to employ any coinage most suitable to their requirements.

King Malietoa having, by letter to each of the Consuls, complained of the action of Baron Senfft von Pilsach in refusing to accept the decision of the Samoan Government reported in my despatch of the 15th instant, and having asked our advice, we, in a joint letter on the 25th August, forwarded to the King a copy of the rates of exchange and the currencies adopted by the Municipal Council at the suggestion of the Consular Board. In this, as in all other matters, the Consuls have worked together with the most perfect harmony and unanimity.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 123.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received October* 16.)

My Lord, *Samoa, September* 2, 1891.

IN further reference to my despatch of the 15th ultimo, I have the honour to inform your Lordship that on the 27th August I received a letter from M. Cedercrantz, Chief Justice of Samoa, informing me that he would leave Samoa on the 4th September for Fiji, and that he might be unable to return in less than eight weeks.

I formally acknowledged the letter on the 28th August.

I have the honour to inclose a copy of a joint note signed by all the Consuls and forwarded to M. Cedercrantz yesterday, drawing his attention to the serious consequences which may arise from his absence at the present political crisis.

I also inclose an extract from the "Samoa Times," which fairly describes the public feeling on the matter.

Mataafa asserts that the Chief Justice's absence is his opportunity, and that he will begin fighting.

In accordance with the joint letter of the Consuls to the Chief Justice, I have now the honour to request that, if possible, steps may be taken by the Treaty Powers to determine under what conditions, and with whose consent, the Chief Justice may for the future take leave of absence, and to provide for the delegation of his duties to a substitute during such absences.

I would point out that provided he cease for the time being to act as President of the Municipal Council, the Adviser to the King (Baron Senfft von Pilsach) would perhaps be a satisfactory substitute to all parties.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

Inclosure 1 in No. 123.

The Consuls of Great Britain, Germany, and the United States at Apia to M. Cedercrantz.

Sir, *Apia, September* 1, 1891.

WE have the honour to inform you, with all respect, that we feel it our duty to draw your attention to the serious and unfortunate consequences which may arise owing to your absence from Samoa at the present political crisis.

Under the Berlin Treaty it is not possible for you to delegate any of your duties to a substitute while you hold the Chief Justiceship.

We would therefore express the hope that you will postpone your projected departure until our respective Governments have been communicated with, in order that arrangements may be made to appoint a substitute during your absence.

We have, &c.
(Signed) T. B. CUSACK-SMITH.
Her Britannic Majesty's Consul.
E. SCHMIDT.
Imperial German Vice-Consul.
W. BLACKLOCK.
Vice-Consul-General, U.S.A.

Inclosure 2 in No. 123.

Extract from the "Samoa Times" of August 22, 1891.

WE understand that it is the intention of the Chief Justice to go to Fiji by the steam-ship "Wainui" leaving here on the 4th September, for the purpose of interviewing the Governor of Fiji on some important matters relating to Samoa. What these matters are we are unable to say, but they must be of more than ordinary interest, otherwise the Chief Justice would communicate with the Governor of Fiji in writing. He had intended to leave by the "Wainui" last trip, but was unable to get ready in time, the vessel leaving the port earlier than usual.

The question now arises whether any person in Samoa could be appointed to exercise the functions of the Chief Justice's office during his temporary absence, and a rumour was very general that the President of the Council would assume the duties while he was away from Samoa.

Section 2 of Article III of the Berlin Treaty states:—

"The powers of the Chief Justice in case of a vacancy of that office from any cause shall be exercised by the President of the Municipal Council until a successor shall be duly appointed and qualified."

A temporary absence does not constitute a vacancy, therefore the President of the Council could not assume the duties of the Chief Justice, and the Berlin Treaty makes no provision for any other person or persons to act in his stead, Owing to the want of direct communication with Fiji he may not be able to return to Samoa for several weeks, and it is consequently of very great importance that all subjects awaiting the arbitration or decision of the Chief Justice should be settled before his departure.

The Chief Justice is not only Judge of the Supreme Court, he has also to arbitrate and finally decide on public matters on which the Municipal Council and the Consular Board disagree, and of late he has frequently been called upon to arbitrate between the Board and the Council on very delicate and important public matters, and as the Chief Justice's decisions have generally been satisfactory, we would prefer awaiting his return to Samoa than intrust such serious matters in other hands. Even if the President of the Council had the power to assume the higher duties it would be placing him in a false position. As Chairman of the Council he would have the absolute power of deciding in favour of the party in the Council which he supported by his vote, and the Consular rejections or amendments to the Municipal Council Resolutions rendered useless where they clashed with the previously recorded views of the President. However, the clause in the Treaty referred to is plain. The President of the Council can only assume the higher functions in the event of a vacancy occurring which would necessitate the appointment of a successor to M. Conrad Cedercrantz, and as the business to be transacted with the Governor of Fiji is apparently of a nature that requires the presence of the Chief Justice in Fiji, we are contented to await his return to Samoa.

There is one other matter in connection with the absence of the Chief Justice from Samoa which has been probably overlooked, on which there is a considerable diversity of opinion. Some persons maintain that if the Chief Justice leaves his post of duty for a foreign port without permission of the King or the three Treaty Powers, or at least without the consent of the Representatives of the Treaty Powers in Samoa, his office may be declared vacant, and in that case the President of the Council could perhaps assume the functions of the higher office. If such an interpretation could be sustained, the Chief Justice could not again resume his position, and a successor would have to be appointed by the Treaty Powers. We presume the Chief Justice has well weighed this important question, and has made himself secure from such a contingency, but it is none the less our duty to refer to the subject.

No. 124.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received October* 16.)

My Lord, *Apia, Samoa, September* 5, 1891.

I HAVE the honour to report that on the 28th day of August His Majesty King Malietoa, with the approval of the Chief Justice, as required by section 2 of Article IV of the Treaty of Berlin, appointed the Rev. Arthur Edward Claxton to be Natives' Advocate.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 125.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received October* 16.)

My Lord, *Samoa, September* 7, 1891.

I HAVE the honour to report that the Chief Justice of Samoa has refused to pay any taxes or duties, claiming exemption.

The Consuls have hitherto paid all taxes and duties in order to set a good example, and save raising what must be a vexed question.

But now that an official who, after the 1st October, is to draw his salary from these very taxes, has added to the many existing difficulties by this refusal to pay, the Consuls are placed in an unfair position. By international law they appear to be, in such a country as Samoa, exempt. If the Chief Justice refuses to pay, naturally the other Government officials will also be justified in refusing.

I shall be greatly obliged by instructions as to whether I am to claim exemption or not; and at the same time I would suggest that as it is unwise, in the financial condition of Samoa, to permit any exemptions from taxation, instructions should be issued to the Chief Justice requiring him to reconsider his refusal.

His absence from Samoa is causing serious inconvenience to British claimants before the Land Commission, as it is not possible to secure now any extension of time for the production of evidence.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 126.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received October* 16.)

My Lord, *Samoa, September* 8, 1891.

I HAVE the honour to report that, in the opinion of the Consuls, the system of a Consular Board supervising and amending the purely municipal work of the Municipal Council of Apia is not working beneficially.

If the Consuls under section 3 of Article V of the Treaty of Berlin are to approve or disapprove every Resolution passed by the Municipal Council before becoming law, it is manifest that the most trifling details of petty administration, having no international interest, have to be dealt with once a-week by the Consuls, whose time is already fully occupied.

Moreover, it is impossible to avoid friction between the Municipal Council and the Consular Board, because the former not unnaturally consider themselves subject to a galling interference whenever any amendments on purely municipal matters are suggested by the Consular Board.

At the present political crisis, it is important that the Consuls should not be called upon to put themselves in antagonism with their own nationals over matters which, I submit, need not be referred to the Consuls.

I would also point out that the supervision of the Consular Board is not really

effective, because the Municipal Council are at liberty to refuse the amendments of the Consular Board. These amendments are thereupon referred to the Chief Justice, who has invariably decided without even asking for the reasons which induced the Consuls unanimously to consider the amendments necessary.

It also places the Consuls in the derogatory and unbecoming position of being apparently under the control of, and inferior to, the Chief Justice of a foreign Power.

I would therefore, with all submission, urge your Lordship to authorize me to join with my colleagues on the Consular Board in declaring that, for the future, they define the phrase "All Ordinances, Resolutions, and Regulations passed by this (Municipal) Council" (section 3, Article V) to mean only Ordinances, Resolutions, and Regulations dealing with offences that are intended to be punishable by fine or imprisonment.

This would remove a great deal of distasteful work from the shoulders of the Consuls, do away with a constant source of friction, please the white population, and still, to all intents and purposes, carry out the provisions of the Treaty.

On my proposal, my colleagues have agreed to make a similar request to their respective Governments.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 127.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received October* 16.)

My Lord, *Samoa, September* 10, 1891.

I HAVE the honour to inclose extracts from the "Samoa Times," which I think fairly represent public opinion with regard to Baron Senfft von Pilsach's conduct.

The choice of a large prison as the first proposed work of the Samoan Government is in itself singularly infelicitous, but when it is proposed to spend on it 7,500 dollars, which, as far as I can ascertain, is half the sum at present collected by the Government, the proposal is little short of madness.

Added to this, an advertisement has appeared calling for tenders for "Capitol buildings," which prove to be mainly a dwelling-house for Baron Senfft von Pilsach. The total cost of the "Capitol buildings" is placed between 10,000 and 15,000 dollars.

These two projects alone—both of them utterly unnecessary at present, and both unpopular with the Samoans—will drain the Treasury dry.

The only chance of getting any more taxes paid by the natives is to spend those already collected in ways which directly benefit the greatest number of the Samoans, and which command their approval.

It would also seem wise to spend the money as far as possible only on such objects as will open up the country, assist trade, and invite capitalists to come to Samoa.

Under section 5 of Article V of the Berlin Treaty the President of the Municipal Council is to render quarterly Financial Reports.

His first Report has not yet appeared, and though the Municipal Council have repeatedly pressed for it, it is now nearly two months overdue.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

Inclosure in No. 127.

Extract from the "Samoa Times" of August 29, 1891.

ON several occasions we had to comment in severe terms on the manner in which the President of the Council conducted the duties he was sent here to perform, either as Chairman of the Council or Adviser to the King. We could have gone much further, but refrained, wishing to give him a fair opportunity to carry out his dual duties without outside interference. The time has now arrived when he must be made aquainted with the prevailing general opinion as to the manner in which he fulfilled the duties of the important post he occupies. We must admit that we are surprised that three great civilized nations did not exercise more discrimination in their choice of a gentleman to such a responsible position. As Chairman of the Council, the successful working of the Municipality is mainly in his hands, and as Adviser to the King, he could exercise considerable influence in the government of the islands; but he has not been altogether successful in either capacity. When Baron Senfft von Pilsach arrived in Samoa he was favourably received, and as a matter of course received his appointment from the King, and hopes were entertained that at last the government of the country would be conducted on something like civilized lines, but in this we are, we regret to say, disappointed. As Chairman of the Council and as Adviser to the King his want of tact has been painfully evident, and his manner of dealing with Government business has resulted in his losing his influence with the King and Government. He seems to imagine that he came here as Dictator as well as Adviser, and endeavoured to force the Government, in one instance at least, to issue an Ordinance which if the Government agreed to would create immense confusion, and be detrimental to the commercial interests not only of the Samoans themselves but (with the exception of the German firm) of nearly all the traders and business people of the country. By his persistency in this matter he very properly suffered a defeat, and any further advice offered by the President to the King will be looked upon with considerable suspicion. Hence the loss of influence which, if properly directed with perfect impartiality, might be exercised to the advancement and prosperity of the country. The principal fault the President has made is in assuming too much authority. He apparently forgets that the groundwork on which the Berlin Treaty is framed is the autonomy of the Samoan Islands, and that the authority of the King and Government is supreme. The President may have an idea, which he has already publicly expressed, that the Government has no notion how to regulate affairs. This idea was probably entertained by the framers of the Berlin Treaty, otherwise they would not have inserted a clause in the Treaty empowering the President to offer the King advice when requested to do so; but advice to the King is all the President can offer, and if such advice is not accepted his responsibility ends. The President by this time must be convinced that his method of dealing with the King and Government was too precipitate and rather dictatorial. On one or two occasions lately the King has absolutely refused to sanction appointments suggested by the President, who, if he desires to be successful, must retrace his steps, and content himself with offering advice only. By following this course he may in time regain his influence with the King and Government which he has unfortunately lost.

The Government held a meeting last week to arrange for the erection of a gaol. It was at first intended to erect a gaol at Mulinuu, but the Chief Justice considered that prisoners should not be located near where the members of the Government resided, and in this view the King and Government agreed.

It was then arranged to build a gaol on leasehold ground in Matafele, and the price the land could be purchased for arranged. For the erection of the gaol there were three tenders, the lowest, Mr. Bahn, being 7,500 dollars. It was determined to accept this tender, provided the Municipality would pay their proportion of the cost of the building, the gaol to be used for both Government and Municipal prisoners. The members of the Municipal Council were not made acquainted by the President that he intended the new gaol to be used for both Samoan Government and Municipal prisoners, and Mr. Dunnet, at the last meeting of the Council, called the attention of the President to the rumour that was current on this subject, and asked for information, but the President declined to answer, stating that the subject would be brought before the Council in due form, and he had no doubt but that the members would agree with what he had done. Some of the members expressed their intention of opposing any money being voted for the purpose.

Since then, we hear that the President has instructed the architect to reduce the plans and specifications; but we question whether he will succeed in getting the Municipal Council to vote any money for the building of the new gaol.

This is another instance of the manner in which the President takes too much on himself. He actually instructed an architect to draw out plans and specifications of a costly building, without even acquainting the Municipal Council of what he was doing, feeling fully assured that all he had to do was to submit the matter after settlement, and the members of the Council would quietly approve of it. When the King was asked to sign the contract, he positively refused to do so unless the Municipal Council agreed to bear the greater portion of the expense. It is to be hoped that the business of the country will, in future, be conducted on a better system, and that the views of both the Samoan Government and the Municipal Council will be ascertained before expensive public works are tendered for.

We have had a glance at what we are informed is a plan of the Capitol buildings and dwelling-house for the President, which is intended to be erected at Mulinuu. It is quite an elaborate affair, and the building will certainly not be erected under a cost of 10,000 dollars, and this costly structure is, we presume, to be erected on leased land belonging to the German firm. We have a notion that when the King and Government are made aware of what the cost of the building will be, there will be some difficulty in getting the King to spend the money. In any case it is highly desirable that, before the building is erected the land on which it is to be placed should be Government freehold property.

No. 128.

Mr. B. Haggard to the Marquis of Salisbury.—(*Received October* 16.)

My Lord, *Apia, Samoa, September* 10, 1891.

I HAVE the honour to inform you that the Chief Justice of Samoa, previous to his leaving for Fiji, wrote a letter to the Samoan Land Commissioners informing them of his approval of the expense of a Secretary as a reasonable and necessary expense for taking evidence under the Berlin General Act, Article IV, section 2.

He also has approved of other expenditures for printing and stationery; also certain expenses for printing in connection with the work of the Natives' Advocate. The latter gentleman was appointed on the 1st September. He is the Rev. Edward Claxton, one of the missionaries of the London Missionary Society. We have received up to date 1,754 claims, and the approximate number I have had the honour already to mention to your Lordship of 2,600 will undoubtedly be exceeded, and it may be the claims will number 3,000. The last day for taking them is the 1st October.

I duly received from your Lordship a telegram as to the sanction of the Chief Justice being requisite before incurring expenditure.

I have, &c.
(Signed) BAZETT M. HAGGARD.

P.S. *September* 15.—The claims now number 2,030.

B. M. H.

No. 129.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, October* 20, 1891.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch of the 31st August last in regard to the currency question, and I am to convey to you his Lordship's approval of your action, as therein reported.

I am, &c.
(Signed) T. H. SANDERSON.

No. 130.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received October* 21.)

(Telegraphic.) *Samoa, October* 14, 1891.

PRESIDENT of Municipal Council resigned on the 5th October, owing to misunderstanding with German member of Council arranging to hand over funds to German Weber. Consular Body protest. President of Council refuses to hand over funds to Consular Body. Chief Justice absent in Australia: returns in November.

Despatches will reach home the 11th November.

No. 131.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, October* 23, 1891.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch of the 8th ultimo, suggesting that the Consular Body at Apia should be relieved from the labour of revising any Municipal Regulations, &c., other than those dealing with offences punishable by fine or imprisonment.

This arrangement would entail an amendment of the provisions of section 3, Article V, of the Final Act of the Berlin Conference, which runs as follows:—

"All Ordinances, Resolutions, and Regulations passed by this (*i.e.*, the Municipal) Council before becoming law shall be referred to the Consular Representatives of the three Treaty Powers sitting conjointly as a Consular Board, who shall either approve and return such Regulations, or suggest such amendments as may be unanimously deemed necessary by them."

I am to inform you, in reply, that, in the opinion of Lord Salisbury, it is desirable that the provisions in question should be subjected to the test of experience for a longer period before the question of amending them by another International Act can be entertained.

I am, &c.

(Signed) T. H. SANDERSON.

No. 132.

The Marquis of Salisbury to Consul Cusack-Smith.

(Telegraphic.) *Foreign Office, October* 24, 1891.

WITH reference to your telegram of the 14th instant, both Her Majesty's Government and German Government much regret resignation of President of Municipal Council, and trust he may be induced to withdraw it. You should do your best to get matters arranged.

No. 133.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, October* 27, 1891.

LORD SALISBURY has had some conversation with the German Ambassador on the subject of the resignation of the President of the Municipal Council of Apia, which was reported in your telegram of the 14th instant, and of which news has also reached the German Government.

Count Hatzfeldt observed that, in the opinion of the German Government, it would be a misfortune if Baron Senfft's services were lost. They hoped he might reconsider his decision.

Lord Salisbury quite concurs in this view, and requests you to use your bes endeavours to arrange any personal difficulties which may have arisen, and to induce Baron Senfft von Pilsach to withdraw his resignation.

I am, &c.
(Signed) P. CURRIE.

No. 134.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, October* 31, 1891.

IN my despatch of the 8th September last you were instructed to request the Chief Justice of Samoa to give a liberal interpretation to section 2, Article IV, of the Final Act, in order to provide for any expenditure that might be necessarily incurred by the Land Commissioners.

Her Majesty's Government still consider that the decision as to the necessity for such expenditure should rest with the Chief Justice, but I am directed by Lord Salisbury to inform you that, in cases where the Chief Justice finds a difficulty in sanctioning expenditure that is recognized by the Consuls of the three Powers to be absolutely necessary, you are authorized, in conjunction with your colleagues, to exercise your discretion as to whether any such items should be sanctioned. The unanimous consent of the three Consuls will, under such circumstances, be held sufficient to justify the disbursements.

I am, &c.
(Signed) P. CURRIE.

No. 135.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received November 12.)

My Lord, *Samoa, October* 14, 1891.

I HAVE the honour to report that the Consuls have been informed that a private letter has been received, by the steamer "Lubeck," which arrived on the 11th, from the Chief Justice of Samoa, stating that he is in Australia, and will not return to Samoa for another month.

Meanwhile, a Swede here has seriously stabbed either a British or an American subject, who is not expected to recover. There is no jurisdiction to try the offender, and he was at large, boasting of his act, until yesterday, when, owing to the indignant remarks of certain residents, the Clerk of the Supreme Court consented to have him arrested and remanded for a week; but the Clerk's powers are very limited, and probably he will not feel justified in detaining the offender in custody without trial for a whole month.

I have already been obliged to refer to the absence of the Chief Justice without leave and against the express wish of the King and Government in my despatches of the 15th August and 2nd September.

I shall be glad to have instructions whether I am to pay the British share of the salary of the Chief Justice for the month of September, during which he has been absent without leave from his duties.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 136.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received November* 12.)

(Extract.) *Samoa, October* 14, 1891.

I HAVE the honour to report that I have this day forwarded per steamer "Lubeck," under cover to Lord Jersey at Sydney, the substance of this despatch, to be telegraphed to your Lordship.

I have now the honour to state that on the 6th October, at 5 P.M., I received a letter, dated same day, from Baron Senfft von Pilsach, informing me that he had obtained leave of absence "from those of his official duties which have respect to the Municipal Council of Apia until the 1st November." He also requested me to arrange a meeting with my colleagues at which he might explain verbally the reasons for his resignation, and "deliberate with us about any arrangements which in consequence of his conclusion might be required for securing the uninterrupted carrying out of the duties connected with his office."

He also inclosed a translation of a letter, dated the 5th October, from himself to King Malietoa, in which he informed His Majesty that he resigned the position with which the King had intrusted him.

Copies of these two letters are appended as Inclosures 1 and 2.

In order to make the matters connected with Baron Senfft von Pilsach's resignation as clear as possible, I shall in this despatch deal only with the facts of his resignation.

On the 8th October, at the German Consulate, the Consular Representatives met Baron Senfft von Pilsach, who made a long statement in which he put forward as the ostensible reason for his resignation that a M. Grevsmühl, a German member of the Municipal Council, had corresponded with King Malietoa unknown to him (Baron S. von Pilsach), and that the King had not consulted him as to his reply, which had been subsequently published in the "Samoa Times." I append as Inclosure 4 copies of the said correspondence. Baron Senfft von Pilsach stated that it was a necessity that no one should be allowed to correspond with the King, or the King permitted to reply without the knowledge of, and advice from, the Municipal President. The answer of the King showed his want of confidence in him, and he need not express to us the necessity for his possessing to the full the confidence of His Majesty, whom he had informed that he could not succeed without that confidence. His authority had been damaged by the publication of the King's answer to M. Grevsmühl. He had expressed to the King his determination to resign, as he could not see any chance of succeeding under existing circumstances in the duties intrusted to him. He hoped that the Consuls would think, not that he had acted like a spoilt child, but from the serious conviction of the impossibility of his succeeding, at least under the present circumstances. He concluded by asking the opinion of the Consuls upon the step he had taken.

I said that I had no instructions and felt precluded from offering any opinion, but thanked him on behalf of Her Majesty's Government for his explanation, which would simplify matters for me.

I pointed out that, as no answer could be received from the Powers before the 1st November, on which day his leave expired, it would be important to learn if it was his intention to return to his former municipal duties after that date. He replied that he had no intention of returning at all to the Municipal Council under any circumstances. He had presided at a meeting of the Municipal Council on the 7th October, having put on the orders of the day, "The appointment of a Chairman *pro tempore*." He informed the Municipal Council that it ought not to have a President with damaged authority—authority damaged by the King. He had refused to allow the Municipal Councillors to open a discussion as to the step he had taken; "they had begun quarrelling with him, and abusing him, and talking of his salary." M. Weber, a German, had been elected Chairman *pro tempore*. I append, as Inclosure 5, a report of the proceedings at this meeting. He further said that he had arranged to hand over the archives and Treasury to M. Weber at 4 P.M. that day. The Consuls were unanimous in pointing out the impropriety of such a step, as no one except the President of the Municipal Council could act as Treasurer and custodian of the funds under Article V, section 5, of the Berlin Treaty, but the Consuls thought it desirable that they should reassume the control of the Treasury which they had exercised under instructions from the Treaty Powers previous to the arrival in Samoa of the President. Only two days before his resignation he had

drawn about 7,000 dollars from the custody of the Consuls. It was finally arranged that he should hand over the money to the Consuls after a private meeting to be held by us the following day.

I then asked Baron Senfft von Pilsach to state his suggestions for the performance, pending instructions from the Treaty Powers, of the duties of Adviser to the King. He suggested waiting until the arrival of the Chief Justice, who is absent from Samoa. To this the Consuls unanimously objected, as the Chief Justice was absent for the second time during a crisis, despite the warnings of the Consuls. Baron Senfft von Pilsach was anxious we should not inform the Powers of his resignation, but we all informed him that we could not keep the matter to ourselves, or treat it as confidential, as he requested us to do. The interview thereupon terminated. The Consuls agreed upon an identic telegram on the 9th October, and upon the steps detailed in Inclosure 3. However, since the receipt of the reply of Baron Senfft von Pilsach, dated the 10th October (Inclosure 3), the German Vice-Consul has not unnaturally been unable to act with his colleagues, and our identic telegram, which stated that "Consuls have reassumed control of the Treasury," had to be abandoned.

I have the honour to suggest that it would be well for instructions to be sent to the Consuls to take over from Baron Senfft von Pilsach the custody of the funds *pro tempore.*

P.S.—Baron Senfft von Pilsach had informed the Consuls that he would forward his reasons for resignation to the Powers through them, but since wiring the above he has informed me that he has sent his communication direct to your Lordship, so I have not seen it.

Inclosure 1 in No. 136.

Baron Senfft von Pilsach to Consul Cusack-Smith.

Sir, *Apia, October* 6, 1891.

I HAVE the honour to inclose you herewith the English translation of a Samoan letter which, with the kind assistance of the Rev. A. E. Claxton, I have written to His Majesty King Malietoa.

At the same time, I have asked His Majesty for leave of absence from those of my official duties which have respect to the Municipal Council of Apia until the 1st of next month. This request has been agreed to by His Majesty.

I should be most thankful to you if you would kindly give me opportunity to explain at first verbally the reasons of the step I have taken to you and to the Consular Representatives of the United States and of Germany, to whom I have also written in the matter.

With your permission I shall avail myself of the same opportunity to deliberate with you and your colleagues about any arrangements which, in consequence of my conclusion, may be required for securing the uninterrupted carrying out of the duties connected with my office.

I have, &c.
(Signed) FRHR. SENFFT VON PILSACH.

Inclosure 2 in No. 136.

Baron Senfft von Pilsach to the King of Samoa.

(Translation.)

Your Majesty, *Apia, October* 5, 1891.

FOR the reasons I have had the honour to explain to your Majesty verbally I beg to resign the position your Majesty has intrusted me with.

At the same time, I have to declare that I am willing to go on with the per-

formance of my duties until arrangements will be made for the further carrying out of the business of my office.

I have, &c.

(Signed) FRHR. SENFFT VON PILSACH.

Inclosure 3 in No. 136.

Baron Senfft von Pilsach to Consul Cusack-Smith.

Sir, *Apia, October* 10, 1891.

THE Imperial German Vice-Consul has informed me that the Representatives of the three Treaty Powers, in a meeting held yesterday, have agreed to forward to me verbally, through the intermediation of M. Schmidt, the following communication:—

1. They are prepared to take over the moneys of the Samoan Government and those of the Municipality of Apia if requested to do so by His Majesty King Malietoa, to whom they wish me to communicate their views.

2. They propose Monday, the 12th instant, for the delivery of the moneys.

3. They wish me to send a letter to the Union Bank of Australia with the mail-steamer starting from here on the 13th instant, in order to inform that Bank that the Consular Representatives will replace me in signing the bills of exchange drawn in favour of the Samoan Government or of the Municipal Council of Apia.

In reply to this communication, I beg to state that, in the conference of the Consular Representatives and myself which took place on the 8th instant at the German Consulate, you expressed your doubt as to whether, under the provisions of the Berlin Treaty, I was at liberty to hand over the funds of the Municipal Council of Apia to the Chairman who, on the 7th instant, has been elected by the aforesaid Council in consequence of my leave of absence from the same.

Having concurred in this doubt, I have explained to the Chairman, M. Weber, also on the 8th, that, in my view, during my leave of absence the bills for the disbursements of the Municipal Council ought to be signed by him, but that I did not feel authorized to acquit myself of the custody of the municipal funds. M. Weber has agreed to this arrangement.

Concerning the funds of the Samoan Government, no agreement between you and myself was made in our above-mentioned conference. On my part, I expressed the intention to lead on that part of my official business which has respect to the Samoan Government until sufficient arrangements would be made for my representation therein. In parting the Consular Representatives informed me they would let me know their opinion as to the administration of the Treasury after a meeting to be held between themselves. This has been done by the quoted communication of the Imperial German Vice-Consul.

Since our conference I have also considered the matter, and beg to let you know the result.

I hardly need to say that, under the circumstances which have induced me to tender my resignation, I wish to be relieved from my official duties as soon as possible.

However, according to my opinion, I cannot be relieved from those duties but by the same authorities who have imposed them upon me, that means by the Governments of the three Treaty Powers, and by His Majesty King Malietoa.

This opinion has been the reason of the declaration you find in the second clause of my letter addressed to the King's Majesty on the 5th instant, a copy of which is in your hands.

The aforesaid refers to the formal part of the matter. Moreover, I believe my responsibility is not only a formal but a substantial one, and I regard as being included therein the duty to do my best for the orderly and quiet development of the Samoan affairs under the provisions of the Berlin Treaty until I am allowed to lay down my office. Therefore, when I determined to take the step in question, I came to the conclusion that I was obliged to express the determination at once to King Malietoa and the Representatives of the three Treaty Powers, but on the other hand to continue provisionally my service so far as the Treaty did not provide for a representation. Such is the case in regard to the Treasury, and as I understand

the Treaty also in regard to advising the Samoan Government and applying myself to the promotion of peace and good order.

Likely the delivery of the public funds to the safe keeping of your colleagues would not disturb the development of the public affairs in any way. Nevertheless I believe such a measure would exceed my competence as long as there exists no necessity of taking the same. It would anticipate in some way the decision of the interested Governments and of King Malietoa, also it would raise the rumour of my resignation before the latter has been accepted and before corresponding provisions have been made by the competent authorities.

I may refrain from investigating whether such a rumour ought to be avoided or not, since King Malietoa has instructed me in the most distinct terms to keep this matter secret as long as possible.

These being my views, I deem it necessary for me to follow them until I get a joint instruction from the three Treaty Powers. As it is known to you, I shall ask them to comply with my request of resignation by the next mail, and at the same time I shall ask for instructions as to how and when I am allowed to lay down my office. M. Schmidt has informed me also that you are going to acquaint your Government with my request of resignation by the next telegraphical opportunity. I wish to state that I shall be most thankful for your doing so, and that in consequence I believe no telegraphical despatch from my part will be required.

I have, &c.

(Signed) FRHR. SENFFT VON PILSACH.

Inclosure 4 in No. 136.

Extract from the "Samoa Times" of October 3, 1891.

To the Editor.

Sir, *Apia, September* 29, 1891.

PLEASE insert in your next issue the inclosed letters which passed between me and Le Afioga Malietoa, Le Tupu Samoa, in regard to the currency of Samoa.

We all know, at least those that have read the Protocols of the Samoan Conference must know, that the several honourable framers had in view to give to Samoa the best laws and Constitution. This idea is inferred in the words that Samoa had got rid of the Bolivian coin, and it would be well to do away with the Chile and similar coin.

Therefore it must be a riddle to all well-wishers of Samoa that our high official does not hurry up with the publication of the Law passed on the 23rd July. Is he as ignorant as the natives to know that Ordinances only must be made known publicly to become law?

Whatever is the cause, it is a wrong one, and can only be amended by that what is right, which is, if the Samoan Government has the right to make laws, after exercising right, to advise the King and Faipule to publish the same.

I trust that all those who are for a good currency in Samoa will attend to a meeting, if it should be necessary to hold one, to support the Samoan Government against wrong advisers, and enable them to carry out their laudable purpose.

I am, &c.

(Signed) GREVSMÜHL.

Apia, September 17, 1891.

I most respectfully ask Lau Susuga ma Faipule of the Samoan Government, please, what meant you with the letter written on the 27th July and the 1st August to the members of the Municipal Council, both of which said that, on and after the 15th November, 1891, no Chile, no German coin were to be accepted by the Samoan Government?

How, unless it being published all over Samoa, it is only a dead, useless letter, and no benefit could come to Samoa.

Who is it, if you please to let me know, that does prevent the publishing of this lawful document? Is it done by mistake, or intentionally? In both cases the party or parties are to be blamed for it, and show the incapacitude for their offices.

Unless it be differently, I believe it is the President who is neglecting his duty to his new-adopted country, and not impartial to the Berlin Treaty.

Being a seventeen years' resident, and a property holder in Samoa, I have the good of Samoa before my eyes, and do not like to see the Malo o Samoa put up to ridicule. by making laws, and not putting them in power and force. The Berlin Treaty grants the Malo o Samoa the making of laws, notwithstanding what the Chief Justice, President, Consuls, and many other members of the community say to the contrary. Therefore, knowing that you meant what you wrote to us on the 27th July and the 1st August, 1891, I kindly request to take the necessary steps to get this Law published that comes into force on the 15th November, 1891. All the residents will wish you joy, and be of the same opinion as you are.

I am, &c.

(Signed) GREVSMÜHL.

Sir, *Mulinuu, September* 20, 1891.

Your letter of the 17th instant is to hand, wherein you ask me to let you know about our letter of the 27th July and the 1st August, which we wrote to the President and members of the Municipal Council.

We now let you know the decision of the Samoan Government.

We are unanimous that only American and English coin be taken, no German coin. Only the above two shall be taken by the Samoan Government.

Now, we are going to get printed, published, and made known that this is law all over Samoa, and this, you know, this in particular.

We, of the Samoan Government, have only one talk in this matter, and will not be persuaded to agree to anything else.

(Signed) MALIETOA, *Le Tupu Samoa.*

Inclosure 5 in No. 136.

Extract from the "Samoa Times" of October 10, 1891.

MUNICIPAL COUNCIL MEETING.—A meeting of the Municipal Council was held last Wednesday, the 7th October, at 9 A.M., the President and all the members except M. Grevsmühl being present.

Before entering into the consideration of the orders of the day the President informed the members of the Council that he had asked for and obtained from the King leave of absence from his duties as Chairman of the Municipal Council for one month, that is, to the 1st November. The President explained that the reason he asked for leave of absence was on account of a letter having appeared in the "Samoa Times" newspaper over M. Grevsmühl's signature. This letter dealt solely with general Government affairs. and was an interference with his authority. The letter disclosed a communication between the King and M. Grevsmühl on Samoan matters, and he (the President) was not made acquainted with the correspondence. M. Grevsmühl wrote to the King direct, and the King answered M. Grevsmühl's letter in the same manner. He (the President) was not consulted, nor did the King make known to him what he had done. Such interference was against his sense of duty, and damaging to his (the President's) authority.

Mr. Moors.—What has a letter in the newspaper to do with your taking such a step as asking leave to retire for a time from your duties ?

The President.—I will not further explain matters, nor enter into further particulars. The Postal Subsidy Committee's Report is first on the roll for your consideration, and when you appoint your Chairman you can proceed with the orders of the day.

Messrs. Weber and *Dunnet* failed to see why the President should leave the chair on account of a letter appearing in the local newspaper, especially as the subject-matter of the letter did not comment on, or refer to, municipal business.

The President refused to enter into the subject.

Mr. Moors (to the President).—The Municipality is paying very highly for your services.

The President then handed the papers on municipal business to the Secretary, and left the chamber.

Mr. Moors proposed that M. Weber act as Chairman, seconded by Mr. Haidlen, and carried.

M. Grevsmühl then entered the room and inquired the cause of the President's retirement, and was informed by the Chairman that it was on account of a letter appearing in the "Samoan Times," written by M. Grevsmühl.

M. Grevsmühl said he considered he had a right to send communications to the press on any public subject. He expressed his astonishment that the President should act in such a childish manner.

Mr. Dunnet.—The President had better send in his resignation at once; he cannot be considered absent in this instance.

Mr. Moors.—I dare say we can do as well without him.

The Minutes of the last meeting were then read and confirmed.

The matter of sending portion of the revenue out of the country by the President was brought up.

Mr. Moors thought the President was taking an extraordinary liberty with our money.

M. Grevsmühl objected most strongly to the conduct of the President in this matter.

Mr. Dunnet said the money should be returned at once.

The matter was left over till next meeting, when the consideration of the President's Report would be brought up for discussion.

No. 137.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received November* 12.)

My Lord, *Samoa, October* 15, 1891.

REFERRING to the resignation of Baron Senfft von Pilsach, I have the honour to lay before your Lordship certain suggestions which would, I venture to believe, make matters run more smoothly in Samoa and save the Treaty Powers trouble.

1. I am convinced that it would be unwise and useless for the Powers to nominate any successor to Baron Senfft von Pilsach in his municipal capacity. A local working Mayor of Apia with most, if not all, of the authority of the President, elected annually at a salary not exceeding 1,000 dollars, would save 4,000 dollars per annum for sorely-needed improvements in the harbour and Municipality, and prove more successful than the introduction of a stranger who can know nothing of the people or of the local wants.

2. The Consular Board should only retain its duties of supervision so far as Municipal elections, Laws, Ordinances, and possibly Budgets are concerned, as detailed in my despatch of the 8th September, 1891.

3. That the Municipal Council not having under the foregoing proposals to pay any official for whom the Treaty Powers are in any way responsible should be allowed to appoint their own Treasurer under proper guarantees and have the custody of the Municipal funds. The revenue for the quarter ending the 14th August, 1891, shows a decrease of one-half as compared with the corresponding quarter of 1890 when the Consuls were collecting.

4. As to the duties of Adviser to the King and Government, after the high expectations of the Samoans as to the good to be derived from the advent of the Municipal President and the falsification of their hopes, it would be impossible for any successor to gain their confidence.

But I submit that when the the three Consuls from the 15th May to the 31st December, 1890, informally acted as Joint Advisers, the Treaty Powers were saved a great deal of correspondence and trouble which has since resulted. And my despatches of this year show that the Samoan Government has turned to the Consuls in all matters of difficulty even since the arrival of the Municipal President.

I venture to think that the Powers would be saved much trouble if they were to constitute, with the approval of King Malietoa, their Consular Representatives as

Commissioners for the term of one year, to jointly perform the duties assigned by the Treaty as Adviser to the King.

The Commissioners would act on the lines of the present Consular Board as defined in Article V, section 3, of the Treaty, and only give advice when unanimous, but in case of the Commissioners not being unanimous on any subject, they should not be compelled to refer to the Chief Justice, but permitted, should they unanimously so desire, to request the Chief Justice to hear their opinions and suggest a compromise. The Commissioners would appoint, with the approval of the King, a Secretary to be paid by the Samoan Government, who would attend Government meetings, wait on the King, conduct correspondence, interview natives, advise on the details of all schemes previously approved, and personally oversee the carrying out of matters agreed upon between the Samoan Government and the Commissioners. Such a man, who must be a fluent Samoan scholar, can be found here.

5. The duties of the Samoan Government Treasury might possibly be imposed on the Chief Justice, who has no duties for his big salary; or upon the Secretary to the Consular Commissioners, who could supervise him without much trouble.

No expense would fall on the Treaty Powers, and I have the utmost confidence that in the year of their appointment the Commissioners would do much to consolidate the Government of Samoa, put the finances on a sounder basis, and materially improve the condition of the country.

6. I inclose copy of a leading article in the "Samoa Times" which shows that already amendments to the Treaty, mostly of a petty financial nature, are being considered here, and no doubt a few are necessary, especially in the taxes, licences, and duties.

7. Article VIII, section 1, provides that changes in the Final Act may be made by consent of the three Powers. It is true that the three years mentioned do not expire until June next, but "in the meantime any special amendments may be adopted by the consent of the three Treaty Powers with the adherence of Samoa."

I would therefore suggest that though no fundamental or very important changes are required in the Berlin Act, yet several minor changes are urgently necessary, and that a Minor Conference should be summoned at once, consisting of the Consuls here, who know the local details, and a Commissioner from each Treaty Power. If we met at Sydney we need only be absent from Samoa two months, if in America or England we could be back in three months, and during January, February, and March, the hurricane months, nothing is done here.

I do not think the Conference would be so successful in Samoa itself.

To this Minor Conference might be submitted such of the foregoing suggestions as might be considered by your Lordship as worthy of consideration, as well as any suggestions from the mercantile community in Samoa.

There is one other point which would certainly be raised, viz., the necessity for some clearer definition of those powers of the Chief Justice which may be said to lie outside his judicial functions. The question of his leave of absence in the future could also be settled by this Conference, as well as the payment of taxes and duties by him and the Consuls.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

Inclosure in No. 137.

Extract from the "Samoa Times" of October 3, 1891.

IN last week's issue we called public attention to the desirability of the citizens of Apia selecting a few influential residents to meet together for the purpose of discussing several clauses of the Berlin Treaty which have been found unsuitable to the requirements of the Municipality, and which we are powerless to alter or repeal without the sanction of the three Treaty Powers. Every member of our community is now fully aware that many of the details of the Berlin General Act are faulty and extremely vexatious.

The roundabout and cumbrous machinery of the Municipal Council is calculated

to obstruct the business of Council meetings and create considerable friction between the Council and the Consular Board. Every Resolution of the Municipal Council must (according to the provisions of the Treaty) be submitted to the Consular Board for approval or amendment, and if the Resolution does not meet with the approval of the Board it is sent back with suggestions or amendments, and then, should the Municipal Council refuse to alter their Resolution, the subject has to be forwarded on to the Chief Justice, whose decision is final.

This is one subject that ought to be reconsidered, but there are many others which demand immediate change, first of which is the administration of justice, both inside and outside the Municipality, and until an alteration is made in the present system justice will never be administered with fairness or satisfaction. At present a trader residing in the country districts cannot recover the most trifling debt without bringing his case before the Supreme Court in Apia, and if any offence is committed on himself or his property, he must appear in Apia and lay the matter before his Consul or the Chief Justice. This, of course, necessitates considerable delay and loss of time and money, which could easily be avoided by the appointment of visiting white Magistrates through the group. Even our Municipal Magistrate cannot deal with small-debt cases, and has not the power to sentence a prisoner to hard labour; and prisoners charged with felony are not allowed a preliminary investigation in the lower Court.

The customs duties also want revising; and in dealing with this subject the members of the Conference were decidedly in error by entering too minutely into details. With the exception of manufactured tobacco and intoxicating drink, all goods, of no matter what description, are admitted at the ridiculously low figure of 2 per cent. *ad valorem* duty. No distinctions are made. Opium comes in at the same rate as biscuits, and opium is an article on which in most countries a heavy duty is imposed, and in some places prohibited altogether. The small duty on general goods only little more than covers the cost of the staff to collect it, and does not afford the storekeeper a chance to increase the value of his wares, although he is put to as much delay as if the duty was 10 per cent., when he would be justified in increasing his prices.

Then, again, the impost of 2 per cent. duty on the export of copra—our principal article of commerce—deals harshly on the producers of that article, who should be allowed free liberty to forward his produce to foreign markets without any expense whatever. This tax should certainly be abolished, and the duty on general goods increased.

There are numerous other matters that require alteration or revision, and no time should be lost in appointing experienced citizens to review the whole Treaty, and submit amendments to the Treaty Powers.

As an instance of the vexatious delay caused by having to refer the decisions of the Council to the Consuls, and again to the Chief Justice, before the Municipal Council can put them into force, some Municipal Regulations were framed seven weeks ago, forwarded to the Consular Board, returned to the Council with very trifling amendments, which not being considered suitable to the Council, they were forwarded to the Chief Justice for his final decision, and there they remain ever since. Until those Regulations which refer to customs, harbour, and sanitary arrangements are signed by the Chief Justice, the Council cannot enforce them.

No. 138.

Baron Senfft von Pilsach to the Marquis of Salisbury.—(*Received November* 13.)

My Lord, *Apia, October* 13, 1891.

I HAVE the honour to acquaint you that on the 5th October I have tendered my resignation to King Malietoa, by whom I have been appointed as President of the Municipal Council of Apia on the 6th May of this year. Since in this capacity I had been agreed upon by the three Powers signing the Berlin Treaty, I found myself obliged, when I took the aforesaid step, to ask the three respective Governments for their approval, and beg leave to submit herewith most respectfully such a request to your Lordship.

At the beginning of the month of August I had occasion to draw King Malietoa's attention to some bad consequences which would occur if the King allowed irresponsible persons to induce him to take official measures. I got the impression that the King understood my advice, and under that impression I have continued my work.

On the 3rd October I read in the local newspaper a correspondence between King Malietoa and a German member of the Municipal Council. By chance this was the same gentleman whose interference in Government affairs had already caused the aforesaid advice on my part. The correspondence consisted of a letter from him, dealing again with a matter concerning solely the Samoan Government, and of King Malietoa's answer. The answer was dated twelve days later than the letter, and concurred in the views of its writer. Before I read the correspondence I had no knowledge of it, although the letter addressed to the King interfered just in my official province, the financial administration, and although it contained personal attacks against my sense of duty.

It was the King himself who then, upon my request, confirmed that indeed the correspondence had taken place.

From this experience I could but arrive at three conclusions, which, at the same time, constituted as many reasons for my request of resignation:—

1. No hope of succeeding in my official duties is left to me since I am convinced that King Malietoa does not comprehend the consequences of affording influence in official matters to irresponsible persons. These consequences must be the worse, the Berlin Treaty not having furnished the King's Adviser with any means to formally secure his co-operation, although such means would only be the equivalent of his responsibility. I hardly need to add that it could not be my task, especially in the first months of my service, to complete the Treaty, with amendments, in order to strengthen my position.

2. The same failure of success must arise for me out of the want of confidence the King has proved towards me in concealing the correspondence in question, notwithstanding several conferences he held with me during the respective time.

3. A full and undamaged authority is not less indispensable for fulfilling the task imposed on my office by the Berlin General Act than the King's confidence. The King himself having apparently damaged my authority, he cannot repair the same without getting into an humiliating position on his part which certainly would raise more harm than there exists already.

In connection with these considerations, I cannot forbear observing that, according to my opinion, experiences like the above stated would have been avoided if, in consequence of the common interest the Treaty Powers have in supporting the authority of my office, I had found the common assistance of the Consular Representatives in one case in which I required their common assistance more than ever. In that case I exerted myself to prevent an unequal action of the Samoan Government in regard to the commercial interests of the three Treaty Powers, and I believed that I was not at liberty to perform this duty of my office with less energy only because Germany, the interests of which were going to be neglected, is my native country. Your Lordship will find the facts in question in the Mémoire I have the honour to inclose herewith.

I have declared to King Malietoa, as well as to the Consular Representatives of the Treaty Powers, that I feel obliged to perform my official duties, inasmuch as the Berlin General Act does not provide my representation therein, until I am allowed to lay down my position through a joint instruction of the three Powers.

I shall be most thankful if this can be done telegraphically.

I also most respectfully ask your Lordship to instruct me whether you wish me to call at the Foreign Office in returning to Germany.

I have, &c.

(Signed) FRHR. SENFFT VON PILSACH.

Inclosure in No. 138.

Memorandum.

IN a meeting of the Municipal Council of Apia, held on the 3rd June, the question was discussed how the troublesome state of different coin circulating in Samoa could be altered.

The Berlin Treaty not having established a currency for Samoa, the coins of the three Treaty Powers, and besides the Chile silver, had been introduced, and the fluctuations of the silver value in the money market disturbed to a very disagreeable extent its fixation, and, consequently, the fixation of the prices of goods in this place.

The majority of the Council being inclined to regard that body as competent for making a definite settlement of this affair, I pointed out that a settlement applying to the Samoan Islands could only be made by the Samoan Government.

I added, I had no doubt that, just in this question, the opinion of the Municipal Council in Apia, if communicated to the Government in the form of a request, would have a considerable weight for their decision, the Council consisting mainly of merchants, and, consequently, of men possessing a particular knowledge of the matter.

The result of the discussion was a Resolution saying that the Council requested the Samoan Government to adopt the following rate of exchange for the country:—

"One piece (5 dollars) United States' currency gold to be equal to one English sovereign or to one 20-mark gold piece, and, for change, English silver to be taken only, and the Chile dollar as equal to 75 cents (smaller coins in proportion); and that after the 15th November next no Chile coin to be taken for taxes or duties by the Treasurer."

This Resolution having been submitted to the Consular Board, I was informed, by their letter dated the 9th June, that the Consular Board suggest, as an amendment, "that the consideration of this Resolution be deferred."

In their meeting of the 10th June the Municipal Council did not accept this amendment.

I then referred the same, together with the above Resolution, to the Chief Justice of Samoa.

By an accompanying letter, dated the 17th June, I informed him "that the Councillors were not unanimous in the question which kinds of money were admitted in the islands at present, but quite unanimously they regarded the concurrence of much different coins circulating here as a prejudicial one for the interests of the residents, therefore they would like to request the Government that one currency were fixed for the islands as soon as possible, and at the same time to make a proposal with a view to the settlement of this currency question."

On the 20th June the Chief Justice decided "that the Municipal Council are at liberty to submit the above-mentioned Resolution adopted by the Council to the Samoan Government by way of a Petition."

Only, after having obtained this decision I considered myself in the position to deal with the matter in my capacity as Adviser to the Samoan Government.

By letter dated the 26th June I submitted the Resolution of the Municipal Council in the form of a Petition to the Samoan Government; but as no Government office existed at that time except my office, the latter remained at first in my archives, since, before advising King Malietoa in the matter, I desired to ascertain the views of the Chief Justice.

In private interviews I had with him, his Honour declared he was not convinced of the advantages of the arrangement requested by the Municipal Council; however, he did not intend to interfere in my action.

On the 24th July I laid the Petition of the Municipal Council of Apia before King Malietoa.

I advised the King to adopt the proposals made in the Petition, with the modification, however, that I recommended not to exclude the silver of the United States, and to authorize me to publish a corresponding notice in the newspaper.

I expressed my opinion that the lines to be observed by the Treasurer in his receipts and disbursements would consequently be observed also in commercial transactions, that, therefore, no law, but only an order given to me by the King,

would be required, and that such an order could be changed, if necessary, after three or six months.

In reply to my speech, the King stated that he personally agreed to my proposal, but wanted the Faipule to be asked for their opinion. He said this would be only a formality, because the Faipule did not understand the question and would not make any objection; but, on the other hand, if they would not be consulted, troubles might arise afterwards. My answer was: generally it would not be wise to submit matters to the Faipule in which they were not competent to give a decision; nevertheless, I did not see a sufficient reason for objecting to the King's wishes.

Interpreter in this interview was the Rev. Arthur E. Claxton, member of the London Missionary Society.

On the following day a meeting of the Faipule was held in the presence of King Malietoa and myself.

Having explained the matter, I urged the immediate approval of proposal. Some speakers answered, but wanted time for deliberation, saying they would let me know their decision within two days.

On the 27th July, in the evening, I received a letter from King Malietoa informing me that, with his assent, the Government resolved to admit after the 15th November only the gold and silver coin of Great Britain and Ireland, and of the United States of America.

I regarded this resolution not to be binding, because I had not yet advised the Samoan Government in regard to such an engagement, nor had I set forth its possible consequences, and I had no doubt that this was an occasion which, according to the spirit and provisions of the Berlin General Act, require my advice.

Therefore, in a meeting of the Municipal Council of Apia on the 28th July, being asked whether the currency question had been settled by the Government, I strictly denied that.

In this condition the matter remained some days.

On the 1st August I received another letter King Malietoa addressed to the Municipal Council of Apia, repeating more formally the communication of the 27th July.

In the next meeting of the Municipal Council, which was held on the 5th August, a German member of the Council, M. Grevsmühl, declared that the King took this step on his verbal request.

On Monday, the 3rd August, I explained to King Malietoa again, in the presence of the Rev. A. E. Claxton, the reasons for my keeping secret both his letters. He then answered, he comprehended that I was right in acting as I did, and he approved that in another meeting of the Faipule I should try to make them recall their decision.

Before that meeting a conference took place on the 4th August between the three Consular Representatives and myself, at my request. I acquainted them with the state of the matter, and declared that I was anxious to know their opinion, whether they, like I, understood the clause contained in the Berlin General Act under Article VI, section 4, as admitting all kinds of money in Samoa, unless an alteration would be made by the competent authorities, so that, for instance, the coin of one of the Treaty Powers could not be excluded by the Samoan Government without the previous assent of the three Powers.

I understood that Her Britannic Majesty's Consul as well as the Imperial German Vice-Consul clearly expressed themselves in conformity with my interpretation of the Treaty, whilst I did not ascertain the views of the United States' Vice-Consul-General.

By the same opportunity, Her Britannic Majesty's Consul also stated that the Municipal Council of Apia was by no means entitled to issue any decision in the currency question; but that this body ought to take part in its settlement only in giving their opinion like a Chamber of Commerce.

On the 5th August I made known to the Municipal Council in their meeting, both letters I had received from King Malietoa, adding, at the same time, that the decision was not final; for since then the King had instructed me to deal with the matter in another meeting with the Faipule; which I was going to do in the afternoon.

In that meeting I made strong endeavours to convince the Faipule that under the Berlin Treaty the Samoan Government was not at liberty to exclude the German

coin from the islands altogether without the assent of the Treaty Powers. Moreover, I said, it would be very unwise, especially in the present situation of the country, if the Samoan Government would begin to alter the Berlin Treaty from their part in neglecting, in regard to one of the Powers, the equality of rights guaranteed in the Treaty to all of them.

I acted so because I had not presumed for one moment that the decisions of the King and the Faipule, communicated to me on the 27th July, had arisen in the Samoan mind.

Finding myself suddenly placed in front of the uncontrollable influence of irresponsible persons advising the Government, I felt the more obliged to exert myself to overcome the same, and to prevent its consequences.

The Faipule then again expressed their wish to deliberate on the matter in my absence, and to let me know their decision afterwards.

I replied no new decision was required; I should be content if they would revoke the first one, as being inconsistent with the Berlin Treaty, and this they ought to do at once. Their repeated request for time for consideration I repeatedly declined to agree with, but, being unable to obtain a distinct answer, I finally left them, the King having stated that the meeting would be continued on the next day in my presence.

Before I returned on the following day I received a letter from the King requesting me not to come, because the Government's members would consider the question privately, and acquaint me with the result in a meeting to be held on the 7th August.

In that meeting the King declared that the Government were unwilling to revoke their first decision.

On the following day I advised King Malietoa to communicate the Resolution of the Government to the Consular Representatives of the Treaty Powers. When I repeated that advice on the 11th August through the Chief Mamea (acting as interpreter), the King replied he had already informed the three Consuls on the same day.

On the 7th August the Imperial German Consul forwarded to me the German translation of a letter addressed by King Malietoa on the 6th August to each of the three Consuls, and also the copy of M. Schmidt's English answer dated the 14th August.

I learned from that correspondence that the King had asked the Consuls whether some declarations I had made in the meetings of the Faipule were true or not, and that the Imperial German Vice-Consul in his answer had ignored this question.

From the part of both the other Consular Representatives, I have not received any information about their respective correspondence with King Malietoa. Only the King himself did show me their letters which also did not contain a reply to the King's question concerning my explanations.

Besides, these three letters furnished King Malietoa with three different judgments in regard to the currency Resolution of the Government. The German Vice-Consul stated that "the three Consuls in a common meeting came to a conclusion that the decision of the Samoan Government is contrary to the Treaty made at Berlin."

Her Britannic Majesty's Consul stated he was "not at present prepared to object to" the same Resolution; and the United States' Vice-Consul-General declared "he saw no reason to complain, and had much pleasure in notifying the same Resolution to his Government."

In the next meeting of the Municipal Council of Apia, on the 12th August, I submitted to them the result of their Petition.

The Council then considered that the decision of the Government would not come into operation before the 15th November, and passed a Resolution saying only that the last fixation of the rate of exchange, made by the Consular Board, 1890, should be binding by the Municipal Treasurer; but no payments in silver exceeding the amount of 10 dollars were to be admitted hereafter.

As an amendment to this Resolution of the Council, the Consular Board suggested that English and German silver should be excluded from the Municipal Treasury.

On the 20th August the Municipal Council accepted that amendment, I only objecting to the same, because, as I said, I was not aware that there was any authority in Samoa entitled to alter the Berlin Treaty.

On the 27th August I received from the Imperial German Vice-Consul a communication informing me that the three Representatives, by common letter dated the 25th August, had acquainted King Malietoa with the Resolution of the Municipal Council accepting the aforesaid amendment of the Consular Board.

Whether they had taken this step on behalf of the Municipal Council, or in advising King Malietoa, I did not learn from the letter; but in both cases I found the Representatives transacting the business of my office.

However, I have laid down my own opinion in the following clause of the quarterly Report I have rendered to King Malietoa on the 8th September:—

"There existed, and exists, no doubt in my mind that, according to Article I and Article VI of the Berlin General Act, everybody in Samoa is allowed to pay his taxes with any coin which constitutes a part of the currency of a foreign country.

"This state of affairs could be altered as far as I understood the aforesaid clauses in connection with Article VIII, section 1, of the Treaty, by consent of the three Powers concerning the coin of either of them, and by a Law to be passed by the Samoan Government concerning the coin of any other foreign country."

(Signed) FRHR. SENFFT VON PILSACH.

Apia, October 13, 1891.

No. 139.

The Marquis of Salisbury to Sir E. Malet.

Sir, *Foreign Office, November* 18, 1891.

I TRANSMIT to your Excellency herewith copies of despatches, as marked in the margin,* relative to the resignation by Baron Senfft von Pilsach of his post as President of the Municipal Council at Apia.

I have to request you to ascertain Baron von Marschall's views upon Consul Cusack-Smith's Reports and suggestions, and likewise as to Baron Senfft's own letter, in which he asks that his resignation may be accepted by telegraph.

I am, &c.

(Signed) SALISBURY.

No. 140.

The Marquis of Salisbury to Consul Cusack-Smith.

(Telegraphic.) *Foreign Office, November* 21, 1891.

IN reply to the inquiry contained in your despatch of the 7th September last, I have to instruct you to continue to pay taxes and other contributions to which you have hitherto been liable.

No. 141.

Memorandum on the Currency Question in Samoa, and the Resignation of Baron Senfft von Pilsach.—(Communicated by the German Embassy, November 28.)

(Translation.) *Foreign Office, Berlin, November* 20, 1891.

DURING the time the three Representatives of the Treaty Powers were administering provisionally the customs and taxes in Apia, a Resolution of the Consular Court of last year fixed as follows the relative values of coins receivable under Article VI, paragraph 4, of the Samoa Treaty, for the payment of customs duties and taxes, as compared with the denominations "*dollars*" and "cents" therein used, namely, 1*l.* = 4 dol. 86 c.; 20 marks = 4 dol. 76 c.; and 7 dollars Chilean currency = 5 dollars American currency.

On the 3rd June last the Municipal Council, on the motion of the President, resolved, in view of simplifying the accounts, to ask the Samoan Government to notify that the 1*l.* and the 20-mark piece should be taken to be of the same value as 5 dollars of the American currency, and to make English and Chilean silver coins

* Nos. 136, 137, and 138.

alone receivable for the payment of customs duties and taxes, with the provision that Chilean silver coins should, on account of the considerable fluctuations in their value, be so receivable only up to the 15th November of this year.

The Consular Court, to which this Resolution was communicated for concurrence, was in favour of postponing a settlement of the matter. The Municipal Council, nevertheless, submitted the Resolution to the Chief Justice for decision, in accordance with the Samoa Treaty, and stated in the note submitting it that the members of the Council were not quite unanimous on the question itself, but agreed that it was not to the interest of the inhabitants that coins of different values should be receivable.

The Chief Justice was, at the same time, requested to prepare a measure in this sense, and to lay it before the King for sanction. Herr Cedercrantz rejected the request, but suggested that the Municipal Council should bring the Resolution before the Government in the form of a Petition. This was done on the 24th July, and Baron von Senfft advised the King to confirm the Resolution, adding the provision that American silver should also be receivable for the payment of customs duties and taxes. The King agreed, but wished, for form's sake, to submit the matter for the decision of the Faipule (Native Council), who, he had no doubt, would make no objection.

On the 27th July Baron Senfft received from the King the surprising information that the Faipule had passed a Resolution that, from the 15th November of this year, *English and American gold and silver coins* should alone be received into the Public Treasuries. Baron Senfft von Pilsach did not bring this Resolution of the Faipule to the knowledge of the Municipal Council, assuming that the Resolution in question was invalid because he, as Adviser to the King, had had no opportunity of explaining to the King the consequences it would have. At a meeting of the Municipal Council which took place the next day, the Chairman, in reply to a question put to him on the subject by a member, stated that no final settlement of the currency question had yet been arrived at. Acting on the instigation of the German member of the Municipal Council, Herr Grevsmühl, who was accounted an opponent of the Chairman, the King, with whom Herr Grevsmühl had had private communication, sent to Baron von Senfft on the 1st August a formal *confirmation* of the Resolution adopted by the Government on the 27th July, which Herr von Pilsach again, and for the same motives as those given above, refrained from communicating to the Municipal Council. On the representations of Herr von Pilsach, who pointed out that, under Article VI of the Treaty, the Government was not justified in adopting such a Resolution without the sanction of the Treaty Powers, the King, Malietoa, declared himself ready to move the Faipule to cancel it. At a meeting of the Consular Court, Baron von Senfft gave an account of the circumstances of the case, and declared that, in view of the provisions of Article VI, paragraph 4, of the Samoa Treaty, the Resolution adopted by the Government, whereby German money was excluded, was invalid. The German and English Representatives concurred in this view, but Mr. Blacklock, the American Consul, expressed no opinion.

The Faipule did not cancel its Resolution, notwithstanding Herr von Senfft's endeavours to induce it to do so. Malietoa informed the three Consuls of this fact by identic notes, and inquired at the same time whether the conjecture of the Chairman of the Municipal Council, that the Resolution was opposed to the provisions of the Samoa Treaty, were correct. The three Consuls answered this note separately, and the German Consul alone stated that the Resolution which the Government had adopted was contrary to the provisions of the Samoa Treaty. The English Consul's answer avoided the point "*that he was not at present prepared to object to the same Resolution,*" and the American Consul accepted the Resolution, "*. . . . no reason to complain.*" On the 12th August the Municipal Council resolved that the rates mentioned at the commencement of the present paper, which had been established by the three Consuls in 1890, should again be put in force for payments into the Municipal Treasury, but that no higher payment than 10 dollars might be made in silver. The Consular Court altered this Resolution in the sense that German and English silver should not be received at all, but that American and Chilean silver should be received to an unlimited extent. The Municipal Council declared against Baron von Senfft's note, that they were agreeable to this arrangement, and in a joint note of the 25th August the three Consuls informed the King of this Resolution. Baron von Senfft considered this direct communication on the part of the Consuls as an encroachment on his rights, and on the 5th ultimo he placed in the King's hands his resignation of his post of Chairman of the Municipal Council,

adding that he would continue to discharge his functions until measures had been taken otherwise to provide for them.

Such renunciation of his post by himself alone remains inoperative so long as the authorities who appointed Baron von Senfft to the Chairmanship of the Municipal Council do not accept it. He was appointed, under an understanding with the Treaty Powers, by the Imperial Chancellor, and the Imperial Chancellor thinks it desirable that, in the interests of peace and good order in the Samoan Islands, Baron von Senfft should remain at his post.

In support of his resignation, Baron von Senfft alleges that he cannot hope to do useful work at Apia now that he no longer possesses the confidence of the King, who has publicly passed him over and followed the advice of irresponsible persons. He is convinced that this would not have happened had he found in the Representatives of the three Treaty Powers the support he was entitled to expect.

In opposing the Resolution adopted by the Samoan Government, whereby German currency was excluded from being used to pay customs duties and taxes, Baron von Senfft relied solely on the Samoa Treaty (Article VI, section 4). The Imperial Government claims no manner of advantage in Samoa over the two other Treaty Powers, but they must decidedly oppose any such diminution of the rights secured to them by Treaty as would be involved in the exclusion of German currency. The Imperial Government is convinced that the loyal observance of the provisions of the Samoa Treaty by the Representatives of the Treaty Powers will be successful in restoring peace and good order in Samoa. But in order to attain this end, it is before all things necessary that the Representatives in question should not work one against another, but that they should, on the contrary, work together in the interests of peace, and should therefore support Baron von Senfft.

The latter's conception of his position must be modified in two directions. On the one hand, he is in error in denying to the Consular Court, when unanimous, the right of access to Malietoa. On the other hand, Baron von Pilsach must not judge of his position with Malietoa by that of a Minister with an European King, and resign when he thinks that influence other than his own is prevailing. The Chairman of the Municipal Council must not forget that he owes his appointment to the Treaty Powers.

No. 142.

The Marquis of Salisbury to Sir E. Malet.

Sir, *Foreign Office, November* 28, 1891.

COUNT METTERNICH left here to-day a Memorandum relative to the resignation of Baron Senfft von Pilsach. The German Government consider that the President of the Samoan Municipal Council has no right to resign his post without the permission of the three Powers, and that he should not be allowed to do so. They complain that the British Consul has opposed him, and that the decision to exclude German currency from the island is contrary to the Treaty, and they propose that the three Consuls should be instructed to procure a reversal of the decision on that point. They consider that this would dispose of the question of Baron Senfft's retirement.

It was pointed out to Count Metternich that British currency was also excluded, and that Her Majesty's Government had no reason to think that the British Consul had separated himself from his German colleague, or had acted in any way in opposition to German interests. The question of the currency appeared to have been settled simply on grounds of public convenience.

The whole correspondence had, however, been sent to your Excellency with instructions to ascertain Baron Marschall's views on Consul Cusack-Smith's Reports, and, pending their receipt, the currency question would receive attention.

I am, &c.

(Signed) SALISBURY.

No. 143.

Sir E. Malet to the Marquis of Salisbury.—(*Received November* 30.)

My Lord, *Berlin, November* 28, 1891.

I HAVE the honour to inform your Lordship that, on receiving your Lordship's despatch of the 18th instant on the affairs of Samoa, I communicated the inclosures to Baron von Marschall, and requested his Excellency to inform me as to his views upon Consul Cusack-Smith's Reports and suggestions. I asked Baron von Marschall yesterday whether he had considered the matter, and he told me that he thought that it was disposed of by the refusal of the Governments to accept Freiherr Senfft von Pilsach's resignation. His Excellency went on to say that, in his opinion, Mr. Cusack-Smith should have supported the President of the Municipal Council in his resistance to the Decree forbidding the entry of German coinage, as such a Decree was clearly a violation of the Samoan Act. All that followed, and the President's final resignation, was due to want of support in this matter where he had a right to look for it, that was, from the three Consuls.

I asked Baron von Marschall what part of the Samoan Act was violated by the Decree in question. His Excellency said that he could not without reference state the passage, but that he was informed by his legal advisers that Freiherr Senfft von Pilsach had acted strictly in accordance with the Act in endeavouring to prevent the Decree, and that he should have been supported by the Consuls.

I have since examined the Act, and the only passage I can find which may be held to bear on the point in question is the third section of Chapter III, end of second paragraph, where it is stated that the President shall not give advice to the prejudice of the rights of either of the Treaty Powers.

The opening declaration, that the citizens and subjects of the three Signatory Powers have equal rights of residence, trade, and personal protection, may, perhaps, be held to exclude the power of the King to prohibit the import of the currency of one of the Signatory Powers.

I have, &c.

(Signed) EDWARD B. MALET.

No. 144.

The Marquis of Salisbury to Consul Cusack-Smith.

(Telegraphic.) *Foreign Office, December* 5, 1891, 4·30 P.M.

YOU should unite with the German Consul in urging the Samoan Government to take measures in accordance with the request of the Municipal Council of the 3rd June and of the 24th July last respecting the currency question.

Her Majesty's Minister at Washington will be instructed to urge the United States' Government to issue similar directions to the American Consul.

No. 145.

The Marquis of Salisbury to Consul Cusack-Smith.

(Telegraphic.) *Foreign Office, December* 5, 1891, 4·30 P.M.

YOUR despatches respecting the resignation of Baron Senfft von Pilsach have been received.

The Treaty Powers have declined to accept his resignation, and the incident must be considered as closed.

Convey to the Chief Justice and to the President of the Municipal Council an expression of the hope of Her Majesty's Government that the three Consuls and the European officials will all cordially co-operate in the interests of peace and good order, and the successful carrying out of the Samoan Act.

No. 146.

The Marquis of Salisbury to Sir E. Malet.

Sir, *Foreign Office, December* 8, 1891.

WITH reference to your despatch of the 28th November last, I transmit to your Excellency herewith copy of a despatch which I have caused to be addressed to Her Majesty's Consul at Apia,* instructing him to act with his German colleague in urging the Samoan Government to adopt the suggestions for the settlement of the currency question which were made by the Municipal Council of Apia on the 3rd June and 24th July last.

I inclose also copy of further correspondence, as marked in the margin,† relating to this question, and I have to request that you will communicate to the German Government the substance of the instructions which have been sent to Consul Cusack-Smith.

You should add that the United States' Government will be urged to issue similar directions to their Consular Representative at Apia.

I am, &c.
(Signed) SALISBURY.

No. 147.

The Marquis of Salisbury to Sir J. Pauncefote.

Sir, *Foreign Office, December* 8, 1891.

I TRANSMIT to you herewith copy of an instruction which I have caused to be addressed to Her Majesty's Consul at Apia relative to the currency question,* together with duplicate copies of previous correspondence on the subject, as marked in the margin.‡

You will observe that Mr. Consul Cusack-Smith has been directed to act with his German colleague in urging the Samoan Government to adopt the arrangements proposed by the Municipal Council of Apia on the 3rd June and 24th July last.

I have to request that you will communicate the accompanying correspondence to the United States' Government, and urge them, if they see no objection, to issue instructions to their Consular Representative at Apia similar to those which have been sent to Her Majesty's Consul.

I am, &c.
(Signed) SALISBURY.

No. 148.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, December* 8, 1891.

LORD SALISBURY has received and considered your despatches of the 14th and 15th October last respecting the currency question in Samoa and Baron Senfft von Pilsach's resignation, and has been in consultation with the German Government upon the subject.

The main point at issue in this matter appeared to be the interpretation of section 4, Article VI, of the Samoan Final Act, which runs as follows:—

"It is understood that 'dollars' and 'cents,' terms of money used in this Act, describe the standard money of the United States of America, or its equivalent in other currencies."

Baron Senfft von Pilsach contends that, reading this in conjunction with Article I of the Final Act, which guarantees "to the citizens and subjects of the three Signatory Powers equal rights of residence, trade, and personal protection," he was justified in resisting the decision come to by the Samoan Government on the 27th July last, by which German coin was excluded from reception at the

* No. 148. † Nos. 138, 141, 144, 145, 147, and 149.
‡ Nos. 119, 122, 138, 141, 143, 144, 145, and 149.

Public Treasury in payment of dues and taxes. Such a decision, the President maintains, was invalid by reason of the fact that the actual state of affairs in regard to the currency cannot be altered without the previous consent of the Treaty Powers.

The attitude thus assumed by Baron Senfft is indorsed by the German Government, who have informed Her Majesty's Government that they are decidedly opposed to any such diminution of the rights secured to them by Treaty as would be involved in the exclusion of German currency from the Samoan Islands. There are, technically, cogent grounds for the view taken by the German Government.

I am, under these circumstances, to instruct you to act with your German colleague in urging the Samoan Government to adopt the suggestions for the settlement of the currency question which were made by the Municipal Council of Apia on the 3rd June and 24th July last, and to take the necessary measures for giving effect to them.

I am to add that Her Majesty's Minister at Washington will be requested to invite the United States' Government to instruct their Consular Representative at Samoa in a sense similar to that of this despatch.

Copies of communications received from Baron Senfft von Pilsach and the German Government upon this subject are annexed, for your confidential information.*

I am, &c.
(Signed) P. CURRIE.

No. 149.

The Marquis of Salisbury to Baron Senfft von Pilsach.

Sir, *Foreign Office, December* 8, 1891.

HER Majesty's Government have had before them your letter of the 13th October, in which you relate the circumstances connected with the currency question in Samoa which have induced you to tender your resignation of the post of President of the Municipal Council.

Instructions have been addressed to Mr. Consul Cusack-Smith which it is hoped will meet the necessities of the case, and you will doubtless have learnt from the German Government that the Powers are not prepared to accept your resignation.

I am, &c.
(Signed) SALISBURY.

No. 150.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received December* 9.)

My Lord, *Samoa, November* 11, 1891.

I HAVE the honour to inform your Lordship that the United States' Land Commissioner announced on the 6th November that he had resigned, and that his successor would arrive by the next mail steamer. Mr. Ide leaves Samoa to-morrow.

His successor comes also from Vermont, of which he has been Lieutenant-Governor and also Governor. His name is Ormsbee.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

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* Nos. 138 and 141.

No. 151.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received January* 7, 1892.)

My Lord, *Samoa, December* 2, 1891.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 23rd October, instructing me that it is desirable to submit the working of the Consular Board to further test, and I will continue to do my best to make it work as smoothly as is possible.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 152.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received January* 7, 1892.)

My Lord, *Samoa, December* 2, 1891.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch dated the 31st October.

Owing to my colleagues not having received precisely similar instructions, it has not yet been possible to make the communication to the Chief Justice in accordance with your Lordship's despatch of the 8th September, but under the various instructions we have each received I anticipate no difficulty in arranging matters satisfactorily with the Chief Justice, so that all difficulty in the payment of the expenditure of the Land Commission will be at an end.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 153.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received January* 7, 1892.)

My Lord, *Samoa, December* 8, 1891.

I HAVE the honour to report that as the new American Land Commissioner has not yet arrived in Samoa, he cannot now arrive before the 26th or 27th December.

The German Land Commissioner is so ill that he is unfit for work.

Mr. Haggard, the British Land Commissioner, left to-day for Sydney. He will be back in Samoa on the 3rd January.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 154.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received January* 7, 1892.)

My Lord, *Samoa, December* 5, 1891.

I HAVE the honour to acknowledge the receipt on the 12th November of your Lordship's telegram concerning the resignation of the Municipal President, dated the 24th October.

I have done my best to arrange matters, but I regret unsuccessfully, as Baron Senfft von Pilsach is determined to await the reply of the Powers to his communications.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 155.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received January 7, 1892.)

(Extract.) *Samoa, December 9, 1891.*

I REGRET to report that both the white officials of the Samoan Government are, as your Lordship will see from the letters I have the honour to inclose, urging King Malietoa to commence military operations against Mataafa.

I received on the 5th December a letter (copy inclosed) in English, written by the Adviser to the King, but signed by King Malietoa, who does not understand a word of English.

As from His Majesty's subsequent communication to the American Consul it would appear that the King did not understand the contents of the letter referred to, it would have no importance were it not that a similar letter will probably be sent to your Lordship.

His Majesty's letter incloses one dated the 3rd December from the Chief Justice (copy inclosed), stating that having on the 24th November sent down to Malié, the head-quarters of Mataafa and his following, to arrest some natives charged with stealing a pig or pigs belonging to a German residing at Malié, the officer of the Court was not permitted to effect the arrests.

Two of the accused subsequently came up to Malié and were discharged, and I understand that Mataafa, or Mr. Moors, an American, who is Adviser to Mataafa in all things, offered to send up the remainder of the accused.

Every one knew that no warrant, probably not even a warrant from the Consular Courts, could be executed in Malié, but in most other places no obstruction would occur.

In view of the grave risk to the life and property of the white residents in Samoa which unsuccessful military operations on the part of the Samoan Government would entail, and the importance of avoiding civil war, I have written to caution His Majesty against hasty action (copy inclosed).

I have the honour to report that on the 7th December the American Vice-Consul informed me that the King had sent to him the previous night to say that the Chief Justice had determined to send down sixty armed men to Malié to effect the arrests. The King at once informed the Chief Justice that to send down such a force without having collected powerful reinforcements and reserves was to court disaster and imperil the safety of Apia and the white residents.

Matters are drifting from bad to worse here.

I will do my best to keep things quiet and restrain hasty action. Men-of-war do no good whatever here, unless war breaks out, when a British war-ship may be necessary to assist in protecting British subjects.

Inclosure 1 in No. 155.

King Malietoa to Consul Cusack-Smith.

Sir, *Mulinuu, December 5, 1891.*

I HAVE the honour to communicate to you herewith copy of a letter I received on the 3rd instant from the Chief Justice of Samoa, and also copy of its inclosure, viz., Report* rendered by Mr. F. Marquardt to the Chief Justice.†

As you will see from these inclosures, the rebellion of Mataafa, which hitherto could be regarded as a mere Samoan affair, begins to obstruct also the execution of the international part of the Berlin Treaty.

Adherents of Mataafa surrounding him at Malié have prevented an acting officer of the Supreme Court from carrying out his orders, and thus have hindered the Court in affording protection to the property of a German subject. In doing so they have referred to the authority of Mataafa, calling him "the King."

* Not printed.

† Mr. Marquardt acted on this occasion as officer of the Supreme Court.—T. B. C.-S.

My Government would be willing to comply at once with the application of the Chief Justice for the assistance of a military force in order to support the officer of the Court in the performance of his duties, but as such a force ought to be strong enough to overcome any possible resistance from the part of Mataafa's followers, the judicial act of enforcing warrants of arrest would adopt the very appearance of a military expedition, and, consequently, might turn in the outbreak of war.

The President of the Municipal Council of Apia has informed me that he is not furnished with such joint instruction of the three Treaty Powers as would be requisite to meet an emergency of this nature.

Having heard his advice, I will endeavour once more to obtain military assistance from the three Treaty Powers, and I am prepared to forward a corresponding request to them by the next mail.

However, such step will not be required, and the existing difficulty may be settled much quicker, in case that the instructions of the Consular Representatives of the Treaty Powers and those of the Commanders of the war-ships being in the Apia Harbour allow them to use their military force in supporting the action of the Supreme Court, which, as I have stated already, has been requested by a German subject on account of his property having been damaged.

Therefore, I shall be obliged to you if you will kindly acquaint your colleagues with my present communication as early as possible, and, having deliberated with them on the matter, notify to me your common conclusion.

I am, &c.

(Signed) MALIETOA, *King of Samoa.*

Inclosure 2 in No. 155.

M. Cedercrantz to King Malietoa.

Your Majesty, *Mulinuu, December* 3, 1891.

I HAVE the honour, &c.

* * * * * *

[Here follows a lengthy description of what occurred at Malié.]

* * * * * *

The authority of a civil officer of the Supreme Court thus being defied and paralyzed, I am obliged to apply hereby to your Majesty's Government for the assistance of a military force sufficient to enable the officer of the Court to enforce and execute the warrant of arrest issued in the Supreme Court on the 24th November last.

* * * * * *

Considering, however, that a military expedition to Malié may possibly meet with forcible resistance from the part of Mataafa's followers; considering, further, the present state of affairs in the country, the natural weakness of a new-established Government, the considerable power of the crowds gathering at Malié, the possibility of a civil war, with all the formidable consequences of such a war, the result of which even might be doubtful, I do not at present request immediate compliance with my application, but submit to your Majesty to take into immediate consideration what steps should be taken by reason of same application.

As a matter of course, your Majesty will request the advice of the President of the Municipal Council of Apia, who may be possessed of such joint instruction of the three Treaty Powers as would be requisite to meet an emergency of this nature.

Surely the matter is most serious, and of the utmost importance.

Orders of the Supreme Court cannot be suffered to be disobeyed and successfully resisted, or the very existence of the arrangement provided for by the Berlin General Act will be imperilled. Military force must be resorted to as an ultimate resource if it becomes necessary, but the result of a military action must not be uncertain, and the success must be insured beforehand, if possible.

Whether or not your Majesty's Government are strong enough to enforce the matter by their own means is not within my power to judge.

If, however, your Majesty, having requested the President's advice, consider the result of a military expedition to Malié to be doubtful, I venture to suggest

that your Majesty would be pleased to take into consideration, with the advice of the President, whether it would not be better to endeavour to obtain military assistance from the three Treaty Powers, either by immediate communication with the Consular Representatives at Apia, if their instructions, as well as the instructions for the Commanders of the men-of-war, afford effective means, or by representation to the respective Governments of the Treaty Powers [*sic*].

In the case your Majesty should determine to apply directly to the Governments in London, Berlin, and Washington, and your Majesty should think fit to request my opinion about such application to be forwarded by the same mail, I shall be glad to have an opportunity of expressing such opinion.

At all events, I am anxious to learn as soon as possible your Majesty's decision concerning this communication.

A copy of this letter will be forwarded by me to the President of the Municipal Council of Apia.

I have, &c.
(Signed) C. CEDERCRANTZ.

Inclosure 3 in No. 155.

Consul Cusack-Smith to King Malietoa.

(Translation.)
(Very Confidential.)

Your Majesty, *Samoa, December* 9, 1891.

I HAVE the honour to acknowledge the receipt of your Majesty's letter dated the 5th December, but I have not been able to consult with the Consular Representatives of Germany and the United States owing to their not having yet received similar communications from your Majesty.

Under the instructions which I have received from my Government it is my duty to warn your Majesty that any hasty and insufficiently considered action at the present moment will probably render the civil war inevitable which has hitherto been happily avoided, and I must also advise your Majesty not to rely upon the active interference of the war-ships of the Treaty Powers.

Any unsuccessful military operations on the part of your Majesty's Government may endanger the lives and property of the white residents in Samoa, and the responsibility will rest with your Majesty and your Government.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 156.

Mr. B. Haggard to the Marquis of Salisbury.—(*Received January* 7, 1892.)

My Lord, *Apia, Samoa, December* 8, 1891.

I HAVE the honour to inform you, with regret, that the new American Land Commissioner, Mr. Ormsbee, did not arrive by the last mail. He cannot, therefore, arrive for another month. This is most unfortunate.

I have the honour to inclose an analysis I had prepared of the claims as presented to the Commissioners. Your Lordship will notice that the claims claim some 900,000 more acres than there is supposed to be acreage in Samoa.

I have, &c.
(Signed) BAZETT M. HAGGARD.

Inclosure in No. 156.

SAMOAN LAND COMMISSION.

Memorandum re *Claims filed with the Samoan Land Commission.*

Total number of claims filed		3,705
Viz.—		
British	1,471	
German	1,415	
American	371	
French (Marist Brothers and three others)	331	
Mixed nationalities	117	
		3,705

NUMBER of Claims filed by certain principal Claimants.

		Claims.
Dr. Stockfleth	German	1,146
E. Weber	„	21
Deutsche Handels- und Plantagen-Gessellschaft (German firm)	„	49
Harris and Macfarlane	British	460
Marist Brothers	French	284
Wm. McArthur and Co.	British	125
London Mission Society	„	106
Wesleyan Conference	„	90
Cornwall, Frank	„	85
Pritchard, George	„	79
Wellman and others	American	69
Hamilton's Trustees	„	50
Hayhurst, Gurr, and Co. (Limited)	British	38
Coe, J. M.	American	38

ESTIMATE of Acreage claimed as per Claims.

	Acres.
British	950,000
American	650,000
German	100,000
Total	1,700,000

(Signed) BAZETT M. HAGGARD,
Her Majesty's Commissioner.

(Signed) R. SKEEN, *Secretary.*
Apia, Samoa, November 27, 1891.

No. 157.

The Marquis of Salisbury to Consul Cusack-Smith.

Sir, *Foreign Office, January* 8, 1892.

I APPROVE the letter to King Malietoa, of which copy is inclosed in your despatch of the 9th ultimo, urging His Majesty to avoid any hasty action which in the present condition of affairs in Samoa may tend to provoke civil war.

I am, &c.
(Signed) SALISBURY.

No. 158.

King Malietoa to the Marquis of Salisbury.—(*Received January* 9, 1892.)

My Lord, *Apia, December* 9, 1891.

I TAKE the liberty to inclose you herewith copy of a letter of the Chief Justice of Samoa,* dated the 3rd instant, copy of its inclosure, and copy of a letter I have written to Her Britannic Majesty's Consul on the 5th instant.

All these papers concern the question: how to execute some warrants of arrest issued by the Supreme Court against residents of Malié, being adherents of the rebellious Chief Mataafa.

I suppose you will find the matter to be of importance with respect to the development of my country on the foundation of the Treaty made in Berlin in 1889. If the Chief Mataafa and his followers cannot be prevented from defying and obstructing the proceedings of the Supreme Court, the whole result of the Berlin Conference seems to be endangered.

I beg to refer to the letter I have written to Mr. Cusack-Smith, and to state that up to this date I have not received an answer.

Most likely the warrants of the Supreme Court can be executed without a serious danger if the execution is supported through some demonstration or action from the part of the war-ships being at present in the Apia Harbour.

I shall be obliged if the Governments of the three Treaty Powers will agree upon such assistance to be afforded by the men-of-war, and if they will send corresponding instructions to their respective Consuls or a joint instruction to the President of the Municipal Council of Apia.

I am, &c.
(Signed) MALIETOA, *King of Samoa.*

No. 159.

The Marquis of Salisbury to Sir E. Malet.†

Sir, *Foreign Office, January* 13, 1892.

I TRANSMIT to your Excellency herewith copy of a communication which I have received from King Malietoa,‡ requesting the assistance of the foreign men-of-war at Samoa with a view to enable the Supreme Court of Samoa to execute its warrants.

It is understood that a similar application has been addressed to the German and United States' Governments, and I have to request that you will ascertain what view the German Government take of King Malietoa's appeal, and the nature of the instructions which they propose to send to their Consul at Apia and the Municipal President.

I am, &c.
(Signed) SALISBURY.

No. 160.

The Marquis of Salisbury to Count Hatzfeldt.

M. l'Ambassadeur, *Foreign Office, January* 22, 1892.

FROM a verbal communication made by your Excellency's directions at this Office on the 16th instant, I understand that the German Government have received reports from their Consul at Apia which lead them to believe that the procedure followed by the Land Commissioners appointed under the Samoan Act is more complicated than was contemplated by that Act, and that, consequently, it may take many years before all the claims which have to be adjudicated upon can be decided.

* See Inclosure in No. 155.

† Also to Sir J. Pauncefote. ‡ No. 158

Your Excellency's Government are, therefore, anxious that the Land Commissioners should be instructed to proceed with greater energy and celerity, and that the Consuls of the three Treaty Powers should also be directed to exert their influence in the same direction.

In reply, I have the honour to state that, according to the latest report received by Her Majesty's Government, the new United States' Land Commissioner was not expected to arrive before the 26th or 27th of last month.

The German Commissioner was stated to be so ill that he was unfit for work.

Under these circumstances, the British Commissioner, Mr. Haggard, had left for Sydney on the 8th December, but would be back in Samoa on the 3rd January, when it is to be hoped that the work of the Commission will be immediately resumed.

As regards the possible duration of the Commission, I have to observe that by section 3 of Article IV of the Samoan Final Act it is stipulated that "the labours of the Commission shall be closed in two years, and sooner if practicable."

Nevertheless, Her Majesty's Government are prepared to instruct their Commissioner and Consul to expedite the proceedings as far as may be possible.

Before doing so, however, they would like to see the precise terms of the instructions which the German Government propose to send to their Representatives at Apia, and they hope that the German Government will also secure the co-operation of the Government of the United States.

I have, &c.
(Signed) SALISBURY.

No. 161.

The Marquis of Salisbury to Consul Cusack-Smith.

(Telegraphic.) *Foreign Office, January* 26, 1892.

WITH reference to your despatch of the 14th October, the Powers are not prepared to adopt the course of making a deduction from the salary of the Chief Justice.

You should address a joint note to him, in concert with your colleagues, requesting, on behalf of the three Governments, that he will furnish an explanation of his reasons for absenting himself from Samoa against the express wish of the King and of the Consular Body.

No. 162.

Mr. B. Haggard to the Marquis of Salisbury.—(Received February 5.)

(Extract.) *Apia, Samoa, January* 6, 1892.

I HAVE the honour to inform you that the United States' Land Commissioner, the Honourable E. J. Ormsbee, has arrived. The Commission resumed its sittings on Monday, the 4th January. I greatly regret to say that M. Eggert, our German colleague, is very ill indeed.

No. 163.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received February 5.)

My Lord, *Samoa, January* 6, 1892.

I HAVE the honour to acknowledge the receipt of your Lordship's telegram, dated the 5th December, *re* the resignation of the Municipal President.

I have made the communications to the Chief Justice and to the Municipal President, as directed.

The Municipal President has not received any communication from the United States' Government, but the delay is perhaps beneficial, giving time for the situation to improve.

It is more satisfactory already in some respects.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 164.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received February 5.)

My Lord, *Samoa, January 7, 1892.*

I HAVE the honour to report that the American Land Commissioner, Mr. Ormsbee, has arrived, and that Mr. Haggard has returned.

The Land Commission has recommenced work.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 165.

The Marquis of Salisbury to Sir E. Malet.

Sir, *Foreign Office, February 8, 1892.*

WITH reference to my despatch of the 22nd ultimo, I transmit to your Excellency herewith an extract from a despatch from Mr. B. Haggard,* reporting that the health of the German Land Commissioner, M. Eggert, is so precarious as to menace an interruption of the proceedings of the Samoan Land Commission.

You will communicate a copy of this extract to the German Government.

I am, &c.
(Signed) SALISBURY.

No. 166.

Count Hatzfeldt to the Marquis of Salisbury.—(Received February 17.)

(Translation.)

My Lord, *German Embassy, London, February 16, 1892.*

UNDER instructions which I have received, I have the honour to inform your Excellency, with reference to your note of the 22nd ultimo, that it has become necessary to relieve Herr Eggert, the German member of the Samoa Land Commission, who is very ill.

In order not to delay the work of the Land Commission, the Imperial Government has authorized the Acting German Consul at Apia, by telegraph, to select a suitable person from among the Germans to be found there, and to charge the person so chosen provisionally with the duties of Land Commissioner until the arrival of the regular Commissioner, who will be appointed at once.

As I have repeatedly represented to your Excellency, the latest reports received by the Imperial Government from Apia leave room for no doubt that the labours of the Land Commission there are proceeding very slowly. Of the 3,705 land claims put in, 72 only have been dealt with. Unless the Governments of the Treaty Powers can hasten the dispatch of the business, a final settlement of the 3,633 remaining claims within the period fixed, namely, two years, is all the less likely, as the claims made to land by foreigners, among which the reasonable amount of the claims made by Germans compare advantageously with the large amounts claimed by the English and Americans, cannot but produce cases of considerable difficulty. The relative amounts of land claimed are about as follows:—

	Acres.
The claims of Englishmen are about	950,000
„ „ Americans are about	650,000
„ „ Germans are about	100,000
Total	1,700,000

* No. 162.

As the area of the whole Samoan group is only about 700,000 acres, the claims sent in exceeed the total area by some million acres, a fact which shows how little tenable the greater part of the claims must be.

The Imperial Government would be obliged if the British Government would also send instructions to Apia in view of the labours of the Land Commission being actively pushed forward.

I have, &c.
(Signed) HATZFELDT.

No. 167.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, February* 23, 1892.

I AM directed by the Marquis of Salisbury to transmit herewith, under flying seal, a despatch addressed to Mr. Haggard,* requesting that the proceedings of the Land Commission may be expedited as far as possible.

You should exert your own influence in this direction.

I am, &c.
(Signed) P. CURRIE.

No. 168.

Foreign Office to Mr. B. Haggard.

Sir, *Foreign Office, February* 23, 1892.

I TRANSMIT herewith, for your confidential information, and for such observations as you may wish to offer, copies of correspondence with the German Ambassador at this Court respecting the slow progress made by the Land Commission.†

I am at the same time directed by the Marquis of Salisbury to urge upon you the importance of avoiding all unnecessary delay, as the work of the Commission should be completed in two years, according to the provisions of the Samoan Final Act.

I am, &c.
(Signed) P. CURRIE.

No. 169.

The Marquis of Salisbury to Count Hatzfeldt.

M. l'Ambassadeur, *Foreign Office, February* 23, 1892.

WITH reference to your Excellency's note of the 16th instant, I have the honour to acquaint you that the British Land Commissioner in Samoa has been instructed to avoid all unnecessary delay, so that the labours of the Land Commission may be closed within the time specified by the Samoan Final Act. Her Majesty's Consul has also been directed to exert his influence in this sense.

I have, &c.
(Signed) SALISBURY.

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* No. 168.

† Nos. 160, 166, and 169.

No. 170.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received February 25.)

(Telegraphic.) *Washington, February 24, 1892.*

I HAVE received a reply to the note which, in accordance with the instructions contained in your Lordship's despatch of the 13th ultimo, I addressed to Mr. Blaine on the subject of the measures to be taken to insure the delivery of the warrants of the Supreme Court.

The United States' Government recommend that the action of the vessels of war be limited to giving their aid in the execution of the warrants of the Supreme Court, such action to be taken only at the request of the three Consuls in each particular case.

No. 171.

Mr. B. Haggard to the Marquis of Salisbury.—(Received March 5.)

(Extract.) *Apia, Samoa, February 2, 1892.*

I HAVE the honour to inform you that our German colleague has informed us that he leaves his post as German Land Commissioner on or about the 1st March next. He is very ill. The doctors of the German man-of-war, in consultation with the German doctor (Funk) here, have ordered him away, and wanted him to leave to-day; he was most desirous not to delay or hinder our work, and they, on his pushing the matter, consented to his remaining another month, so, for this next month, we can continue our work, and I fancy that his Government will have provided relief, if not by the 1st March, yet within a very little time after that, from what I hear. We shall regret Herr Eggert's departure greatly, and especially the cause. We have worked very harmoniously together. I shall be the only remaining Commissioner of those originally dispatched. I beg to draw your Lordship's attention to a copy of a record of a conversation with the Chief Justice of Samoa, taken from our Record Book, and inclosed in this despatch.

Inclosure in No. 171.

SAMOAN LAND COMMISSION.

Extract of Pages 222 and 223 of the Record Book of the Minutes of the Proceedings of the Samoan Land Commission.

ON Saturday, the 9th January, 1892, the Chief Justice held an interview with the Commissioners at their office, which meeting was at his request and by previous appointment desiring to confer personally with them.

The Commissioners were all present. The question of a purchase of another safe was first called to the attention of the Chief Justice by the Commissioners, and the Chief Justice, after viewing the crowded condition of the safes, and being informed that one of the two employed was only on loan to the Commissioners, said he saw more safe accommodation was required, and that he approved of another and sufficiently large safe being bought, and would approve of the expense as requisite under the Treaty.

The Chief Justice then said he thought it would be advisable if an accurate Map of the islands was prepared by order of the Commissioners at the expense of the Commission, and therefore a staff of surveyors would have to be brought to Samoa, of which expense he would approve.

To this suggestion the Commissioners unanimously replied that in their judgment it lay more with the Samoan Government to provide such a survey; that, for their part, they could not, they thought, properly put so great an expense upon their respective Governments, and declined to accept the responsibility of such a survey, for they considered that such surveys as they were authorized to

make were properly only those that they considered necessary for the performance of their duties as occasion should require, and beyond that they had no power or right.

(Signed) E. J. ORMSBEE, BAZETT M. HAGGARD, E. EGGERT, } *Commissioners.*

(Countersigned) BAZETT M. HAGGARD,
Her Majesty's Commissioner.

Apia, Samoa, January 28, 1892.

No. 172.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received March* 5.)

My Lord, *Samoa, February* 2, 1892.

I HAVE the honour to report that on the 14th January Baron Senfft von Pilsach resumed his duties as President of the Municipal Council. His relations with some of the Municipal Councillors are still strained, but in all other directions we have been successful in greatly improving the situation, and all friction has disappeared.

The German Vice-Consul, M. Schmidt, left Samoa yesterday, M. Biermann, the new German Consul, having arrived.

Very erroneous reports of hostilities in Samoa having reached the British Admiral at Sydney, he wrote to me asking if it was necessary to send a British man-of-war to Samoa, which he was anxious not to do in the hurricane months.

I have replied that it is not necessary so far as any danger to white residents is concerned.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 173.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received March* 5.)

My Lord, *Samoa, February* 3, 1892.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 8th December, 1891, with inclosures, instructing me to join with my German colleague in urging the Samoan Government to adopt the suggestions for the settlement of the currency question which were made by the Municipal Council of Apia on the 3rd June and 24th July last, and to take the necessary measures for giving effect to them.

I only wait the announcement from Mr. Consul Biermann that he has assumed office, to at once carry out your Lordship's instructions.

With regard to the inclosures, I would only remind your Lordship that in his verbal and written communications, respecting his resignation, to the Consuls, as reported in my despatch of the 14th October, 1891, from almost verbatim notes taken at the meeting, Baron Senfft von Pilsach never once mentioned the currency question, nor did he state or give us reason to believe that he had the slightest grievance against the Consuls, nor did he in his statement to the Municipal Council mention the currency question; and it is a surprise to me to receive the copy of his letter to your Lordship basing his resignation upon the currency question. I had not previously had a copy of his communication.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 174.

*The Marquis of Salisbury to Sir E. Malet.**

Sir, *Foreign Office, March* 8, 1892.

THE British Land Commissioner at Apia reports, in a recent despatch, that he and his colleagues had unanimously declined to act upon a suggestion of the Chief Justice, that an accurate Map of the whole of the Navigators' Islands should be taken at the expense of the Commission.

This decision seems amply justified by the terms of section 2, Article IV, of the Samoan Final Act, and I have instructed Mr. Haggard that Her Majesty's Government concur in the view taken by the Commissioners.

You should so inform the German Government.

I am, &c.
(Signed) SALISBURY.

No. 175.

The Marquis of Salisbury to Consul Cusack-Smith.

Sir, *Foreign Office, March* 8, 1892.

I HAVE received your despatch of the 2nd February, reporting that Baron Senfft von Pilsach had resumed his duties as President of the Municipal Council; and I have to express my satisfaction that the efforts of the Consuls have resulted in an improvement of the situation.

I am, &c.
(Signed) SALISBURY.

No. 176.

Foreign Office to Mr. B. Haggard.

Sir, *Foreign Office, March* 8, 1892.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch of the 2nd February, reporting that the Land Commissioners had declined to act upon a suggestion of the Chief Justice, that an accurate Map of the whole of the Navigators' Islands should be taken at the expense of the Commission.

The decision of the Commissioners is approved by Her Majesty's Government.

I am, &c.
(Signed) T. V. LISTER.

No. 177.

M. Cedercrantz to the Marquis of Salisbury.—(Received April 2.)

My Lord, *Mulinuu, Samoa, February* 29, 1892.

I HAVE the honour to bring to your Lordship's notice the following circumstances.

Some time ago I found reason to apprehend that the Commission which under Article IV of the Berlin General Act has been appointed for the purpose of investigating the claims of foreigners to land in Samoa in the performance of its duties was guided by principles contrary to the General Act. At an interview held with the Land Commission at my request, I discovered that my apprehensions were well founded. The Commissioners unanimously maintained that the Commission, if unanimous, has power and authority for making final decisions on disputed claims, and informed me that in the exercise of their duties they had acted in accordance therewith. I declared to them that I claimed this power and authority for the Supreme

* Also to Sir J. Pauncefote.

Court, that the Commissioners only had to investigate all claims, disputed or undisputed, to endeavour to effect a just and equitable compromise between litigants, and to report to the Court whether the alleged titles should be recognized and registered, or rejected, and that clause 2, section 6, Article IV, which they quoted in support of their opinion, simply contained a provision that the Court, when it is about to make its final decision, shall confirm such claims as are undisputed, and which the Commissioners, after due investigation, by their provisional decisions in their reports to the Supreme Court unanimously recommend to be recognized and registered. The Commissioners, however, declared that they did not intend to conform to my opinion. In order to prevent any misunderstanding, I sent to the Commission some days afterwards a letter, a copy of which I inclose (Inclosure No. 1), in which I once more laid down my opinion, and again requested the Commission to act accordingly. I inclose a copy of the Commissioners' reply (Inclosure No. 2), dated the 19th February, from which your Lordship will ascertain that the Commission continued to decline to comply with my request.

As my repeated attempts to arrange this matter have been frustrated by the Commissioners' refusal, I have considered it my duty to refer the matter to the three Treaty Powers.

By the standpoint occupied by the Commission as aforesaid, the Commission has constituted itself a Court in land questions, where, according to all probability, by far the largest number of the now presented claims to land would be finally settled.

It is obvious that the Commission thereby is acting in contravention of the Berlin General Act. This is manifest from the wording of Articles III and IV of the Treaty, from the principles which a diligent perusal of the Protocols of the Conferences at Washington and Berlin show to have been guiding for the latter Conference, as well as from your Lordship's declarations in the letter to the British Plenipotentiaries of the 15th May, 1889, and from the communication of the British Plenipotentiaries to your Lordship of the 31st May, 1889. Moreover, the Samoan Government having had nothing to do with the appointment of the Commissioners, the course taken by the Commission violates the great principle of justice, that disputes concerning real property should be decided by the Courts of the country in which the object of the dispute is situated, and by creating two Tribunals it destroys the great basis of safety as to land titles—the uniformity of decision, the more important to establish in Samoa, where a new system in this respect has to be founded.

I further most respectfully submit that the Land Commission has also acted contrary to the Berlin General Act by their refusal to comply with the request contained in my communication relating to the just understanding of their duties. Section 4, Article III, of the General Act confers upon me, as Judge of the Supreme Court, jurisdiction over all questions arising under the provisions of the Act. And so far as my relation to the Land Commission especially is concerned, it seems to me as a matter of course that, in order to obtain a beneficial result of a work like this in question, to be commenced in the Commission and finished in the Court, the latter must be entitled to give such directions in regard to the working as may be requisite.

The Commission, on the other hand, claims to be entirely independent of the Court. It is apparent that the conduct of the Commission in this matter towards me, as Judge of the Supreme Court, has tended to considerably damage the authority of the Court.

It is important already at the present stage that it be fully clear that the Land Commission is an investigating Commission, and not a Court. The mode of procedure to be observed by the Commission in the performance of the duties imposed upon the same by the Berlin General Act must naturally be another than that of a Court, or a great portion of the time allowed to the Land Commission by the Treaty will be wasted without corresponding benefit. In order to derive the highest benefit from the labours of the Commission, and to render the same as useful as has been intended by the Treaty, it is necessary that its whole mode of procedure be changed as soon as possible. Furthermore, the position occupied by the Commission can lead to economic as well as political dangers. Persons whose disputed claims to land the Commission have unanimously approved believe that their right is finally settled, and are at once ready to erect buildings and otherwise invest money in land the ownership of which may be afterwards, by the decision of the Court, granted to another. Concerning the eventual political consequences, I beg most respectfully to refer to a letter (Inclosure No. 3) from King Malietoa. In order to prevent injurious results in both the above respects, on account of the Commissioners' line of action, I

have deemed it my duty to issue the two Proclamations inclosed (Inclosures Nos. 4 and 5).

I have deemed it more necessary to interpose in the manner I have as not a single Report has yet been sent to the Supreme Court from the Commission, and, therefore, I have had no opportunity as yet in dealing with any land case in the Court to dispel the error which prevails within the Commission as well as amongst the public.

By reason of what I have the honour to relate, I most respectfully submit that Her Majesty's Government be pleased to direct the British member of the Commission to comply with the request contained in my communication to the Commission concerning the nature of their duties according to the Berlin General Act, as well as to instruct him to follow such directions as I may hereafter find requisite to communicate to the Commission regarding their mode of procedure.

I have the honour to add that I forward like letters to their Excellencies the Reichs-Chancellor Count von Caprivi, and the Secretary of State Mr. Blaine.

I have, &c.

(Signed) C. CEDERCRANTZ,
Chief Justice of Samoa.

Inclosure 1 in No. 177.

M. Cedercrantz to the Samoan Land Commission.

Gentlemen, *Mulinuu, February* 18, 1892.

WITH reference to our conversation on Monday, the 15th instant, upon the interpretation of Article IV of the Berlin General Act, and more especially of section 6 of the said Article, during which conversation you stated that it had been, and was, the unanimous opinion of the Land Commissioners that the Commission possesses power and authority, if unanimous, to make final decision on disputed claims, whereas the principles laid down by me purposed to convince you that the second clause of the above-mentioned section, under which you claimed the said power and authority, simply is a provision that the Court, when it is going to make its final decision, shall confirm such claims as are undisputed, and which the Commissioners, after due investigation, by their provisional decisions in their Reports to the Supreme Court, unanimously recommend to be recognized and registered, I wish to ask you, do you decline to conform to my opinion, and adapt yourselves to this opinion, by making such alterations in your present mode of procedure as may be requisite?

I beg to request an immediate answer hereto in writing, and remain, &c.

(Signed) C. CEDERCRANTZ.

Inclosure 2 in No. 177.

The Samoan Land Commission to M. Cedercrantz.

Sir, *Apia, February* 19, 1892.

WE have the honour to acknowledge the receipt of your favour of the 18th instant, in which you ask the question, "Do you decline to conform to my opinion, and adapt yourself to this opinion, by making such alterations in your present mode of procedure as may be requisite?"

In answer to this inquiry, we respectfully say that we do decline.

Further, we desire to say that our present interpretation of Article IV of the Berlin General Act is the same as expressed to you on the 15th instant.

This we feel sure cannot be a surprise to you, as it is hardly possible that you would expect that, in the performance of our official and sworn duty, we would adopt the views of another, if those views were in conflict with our own.

In consideration of the present situation, and of the radical difference of opinion between us, we shall, at the first opportunity, acquaint our respective Governments as to the matter, and ask what, if any, directions or instructions they have to give in the premises.

We remain, &c.

(L.S.) (Signed) E. J. ORMSBEE,
BAZETT M. HAGGARD,
C. EGGERT,
Commissioners.

Inclosure 3 in No. 177.

King Malietoa to M. Cedercrantz.

(Translation.)

Your Honour, *Mulinuu, Samoa, February* 20, 1892.

I BEG respectfully to acquaint you that I have just learned a new thing which greatly surprises me.

I put my hand to the Treaty with the three Powers, and with the Samoan Government assented to it on the 19th April, 1890, for it was translated into Samoan, and, after discussing it, we understood generally what was in it. It was said in the Treaty that there shall be a Supreme Court which shall judge all land claims in Samoa, and that three Commissioners, assisted by a Natives' Advocate, shall investigate all foreigners' titles to land, and report to the Chief Justice all matters which affect their validity. It was also said in the Treaty that if any one disputed a title, that title would be tried and decided by the Chief Justice.

But now, the Natives' Advocate explains to me, and it is apparent in to-day's issue of the "Samoa Times," that the Land Commissioners are assuming to do the work of the Chief Justice. They not only examine foreigners' titles to land, but they judge them, wishing to finally decide them.

Sir, I am astonished at this new thing. It is not right. It is not according to the Treaty I signed. Therefore I write to beg your Honour to be so kind as to instruct the Commissioners what they have to do.

I shall write letters, if necessary, to the three Treaty Powers fully informing them of the matter about which I have to complain of the Land Commissioners and their work. But I write now to your Honour because Samoans are complaining that investigations are not thoroughly and fairly made, and decisions are prematurely given by the Commissioners; I am therefore very anxious about this matter, and I hope and beg that something may be done without delay to assure Samoans that justice to them is intended.

There have been many Samoans who have said that the Treaty is of no benefit to Samoans. "The Berlin Treaty," they say, "is only for the benefit of foreigners." But the majority have hoped for some benefit for Samoa from the just settlement of the claims of foreigners to land in Samoa. We thought that there would be a thorough investigation and a just settlement of titles. But now some are complaining at what they see the Commissioners are doing.

Samoa cannot accept the Judgments of the Land Commissioners. They are all strangers to us, and in no way connected with the country, there being no Samoan Commissioner.

There have been great difficulties in the country in days past through the rebellion of those not satisfied with the Treaty. Now, I am very much disturbed in my mind lest this new matter should arouse a much more general suspicion that the Treaty is of no benefit for Samoans, because the Land Commissioners who favour foreigners are confirming their titles.

Therefore, I beg your Honour (if I am right in my opinion that the Commissioners can only investigate and not decide disputed claims) to make known to all Samoans, as soon as possible, that they have no injustice to fear, that the Commissioners are not right in their opinion.

May you live.

I am, &c.

(L.S.) (Signed) MALIETOA.

Inclosure 4 in No. 177.

Proclamation.

WHEREAS it has come to my knowledge that it is generally believed in the country that the Land Commission has power and authority to make final decision upon claims of foreigners to land in Samoa;

And whereas individuals may incur serious losses of property by investing money in land or by making other arrangement or agreements concerning land the ownership of which or other rights to which are not yet finally settled:

Now, therefore, I, C. Cedercrantz, Chief Justice of Samoa, hereby make known to all people whom it may concern that the Supreme Court of Samoa shall make final decision upon all claims to land in Samoa.

The 2nd clause of section 6, Article IV, of the Berlin General Act, which clause is said to have given rise to the misunderstanding, is simply a provision that the Court when it is going to make its final decision shall confirm such claims as are undisputed, and which the Commissioners, after due investigation, by their provisional decisions in their Reports to the Court unanimously recommend to be recognized and registered.

Mulinuu, in the Supreme Court of Samoa, on the 23rd February, 1892.

(Signed) C. CEDERCRANTZ.

Inclosure 5 in No. 177.

Proclamation.

(Translation.)

WHEREAS it has come to my knowledge that it is generally believed in the country that the Land Commission has power and authority to make final decisions on claims of foreigners to land in Samoa, and that the Commissioners can grant land titles to foreigners and dispose of objections and disputes by native Samoans:

Now, therefore, I, C. Cedercrantz, Chief Justice of Samoa, and at the request of His Majesty King Malietoa, hereby make known to all Samoans that the Supreme Court at Mulinuu, which is a permanent part of your own Government, shall finally settle all land disputes in Samoa. The Land Commission has to investigate all claims of foreigners to land in Samoa, as well as objections and disputes regarding such claims; to endeavour to effect a just and equitable compromise between litigants; and to report to the Court the evidence taken, with their recommendations whether the alleged title should be recognized and registered, or rejected. After that the final decision will be made in the Supreme Court, which is a permanent territorial Court for all land disputes in Samoa.

Mulinuu, on the 23rd day of February, 1892.

(Signed) C. CEDERCRANTZ.

No. 178.

Baron Senfft von Pilsach to the Marquis of Salisbury.—(Received April 2.)

My Lord, *Apia, February 29,* 1892.

I HAVE the honour to inclose herewith a Memoir relating to the distribution between the Samoan Government and the Municipality of Apia of that portion of the Samoan revenues which are collected in the form of duties.

I believe your Lordship will find the subject to be of some actual importance with respect to the Samoan affairs.

I have, &c.

(Signed) FRHR. SENFFT VON PILSACH.

Inclosure in No. 178.

Memoir relating to the Distribution between the Samoan Government and the Municipality of Apia of that portion of the Samoan Revenue which is collected in the form of Duties.

IN section 3, Article VI, of the Berlin Act, those revenues of the Treasury which shall be for the use of the Samoan Government are specified in the first clause.

Referring to this specification, the second clause describes the revenues of the Municipality of Apia as being constituted by "the proceeds of the other taxes," and then this description is immediately restricted by the addition of the words "which are collected within the Municipal District exclusively." Neither in the first nor in the second clause are the import and export duties specially mentioned, but just, therefore, it must be inferred that they are comprised in this section under the general denomination of "taxes."

In section 1 of the same Article the port of Apia has been declared "to be the port of entry for all dutiable goods arriving in the Samoan Islands."

Hence the whole of the import duties provided for in the General Act is collected within the Municipal District of Apia, and, consequently, the proceeds thereof are held for the use, and paid out upon the order, of the Municipal Council.

As to the export trade, it has not been restricted to the port of Apia, and, in fact, there are a few other places in the islands from which more or less considerable quantities of produce are shipped direct to foreign countries. Still the duties upon these goods have been hitherto collected by the Collector of the Municipality of Apia, for it was he to whom the exporters have always forwarded their declarations and specifications. However, the extent of these exports and the amount of the respective duties are small in comparison with the exports and export duties of Apia; and if the duties having been and being further collected from the outside places should be claimed and obtained by the Government of the islands, even then the distribution of these duties between the Samoan Government and the Municipality of Apia will be far from what I believe to be a just one.

During the period from the 15th May, 1890, until the 14th May, 1891, the total of the export duties amounted to 2,246 dol. 5 c., and that part therefrom, which, in fact, had been collected outside the Municipal District of Apia, to 107 dol. 81 c., while the balance of 2,138 dol. 24 c. was collected from goods shipped at Apia.

During the period from the 15th May until the 31st December, 1891, the corresponding amounts are as follows:—

	Dol. c.
Export duties, total	2,836 20½
Outside the Municipality	479 06
Inside the Municipality	2,357 14½

This statement shows that the amount of export duties collected from outside places constituted about the sixth part of the whole during the last seven months and a-half, and a much smaller portion during the foregoing twelve months. Yet, considering that the produce of the country which is subject to export duty is altogether gained outside the Municipal District of Apia, it seems to me that neither the sixth nor the third portion, but rather the whole, of these export duties ought to be received by the Samoan Government.

Possibly such an arrangement has been intended by the framers of the Final Act of the Berlin Treaty when they apportioned to the Municipality of Apia "the proceeds of the other taxes which are collected within the Municipal District exclusively."

For if this clause is to be understood literally, there is no doubt that the export duties cannot be claimed by the Municipality of Apia since they are not *exclusively* collected in the Municipal District.

But although I have been unable to interpret the word "exclusively" in any other way, still this reading renders the second clause inconsistent with the first clause of section 3, Article VI, and in fact leads to such consequences with respect to other revenues as to be hardly in conformity with the scheme of the Municipal Administration.

Therefore, the distribution of the revenues between the Samoan Government and the Municipality of Apia has been hitherto carried on under the rule that all revenues are held for the use of the Samoan Government, in so far as they are collected outside and for the use of the Municipal Council of Apia so far as they are collected inside the Municipal District. Should the Governments of the three Treaty Powers disapprove of this practice as to the export duties, and wish me to hold their full amount for the use of the Samoan Government, I shall be thankful if they will inform me thereof through a joint instruction as provided in section 5, Article V.

Concerning the import duties, there exists no uncertainty that, according to the present wording of the Treaty, they are apportioned to the Municipality of Apia.

This being so, I beg leave to suggest most respectfully an alteration of the respective provision as in Article VIII the three Powers have reserved the right to change the provisions of the Treaty at any time by mutual consent.

As I have pointed out that those articles which are subject to export duty are

growing outside the Municipal District, so I may now refer to the fact that the goods which are imported are by no means consumed entirely within the Municipal District.

It is not yet possible to give reliable statistics on this matter; so I only beg to state that the whole population of the Municipal District of Apia does not yet form the thirtieth part of the population of the country, that the traders, agents, overseers of plantations, and other foreigners living in outlying places, are accustomed to the same necessaries of life as the white residents of Apia, and that also the Samoans use a considerable portion of general merchandize in the form of umbrellas, textile fabrics, tinned provisions, soap, &c.

Considering these facts, I should think it would be a fair distribution if two-thirds of the import duties were allowed to the Samoan Government and one-third to the Municipality of Apia.

During the period from the 15th May, 1890, until the 14th May, 1891, the whole revenue of the Municipality amounted to 13,829 dol. 47½ c., and the sum of import duties to 8,237 dol. 18½ c. If two-thirds of this amount, viz., 5,491 dol. 44 c., be deducted from the above, there remains a revenue amounting to 8,338 dol. 3½ c.

During the seven and a-half months from the 15th May until the 31st December, 1891, the corresponding amounts are as follows, viz.:—

	Dol.	c.
Total revenue	16,678	09½
Import duties, 10,680 dol. 97 c.: two-thirds of them	7,120	64
Balance	9,557	45½

This being the revenue of less than two-thirds of one year, the total of the yearly income can be estimated without hesitation at 14,000 dollars, irrespective of any increase of trade, which, however, is generally expected for the next years.

Considering that in former times all necessities of the Municipal Administration of Apia have been met satisfactorily, so I have been told, by a revenue of about 3,000 dollars per annum, and considering, further, that at present the only charge on that revenue, which has been legally fixed, is the salary of the President of the Council, amounting to 5,000 dollars per annum, I see no difficulty in carrying on the administration of the Municipality of Apia on reasonable lines with a revenue of 9,000 dollars, being the balance between the total revenue (10,000 dollars) and the President's salary.

In case the Government of the three Treaty Powers adopt those views, I most respectfully beg to propose the following amendment, to be inserted in section 3, Article VI, as the third clause:—

"As to the duties, the export duties shall be collected by and for the Samoan Government. Of the import duties, the collection of which shall be in the hands of the Municipal Council of Apia, two-thirds of the gross amount accruing therefrom shall be held for the use and paid out upon the order of the Samoan Government. This provision shall take effect from the 1st January, 1892."

The foregoing considerations tend to set forth that the proposed amendment would be more in conformity with the effective conditions of the export and import trade of Samoa than the present arrangement, also that such amendment can be introduced at once without endangering the financial foundation of the Municipal Administration of Apia. I shall now proceed to show the actual value of my proposal for the Samoan Government, and for those institutions of the Berlin General Act which are based upon the existence and consistence of that Government.

This actual value will be easily derived from the fact that the means of the Samoan Government will be exhausted in a few months unless a considerable share of the proceeds of the indirect taxes be apportioned to the Government.

At present there are about 4,000 dollars in the Treasury belonging to the Samoan Government.

Including the salary of the Chief Justice of Samoa, the monthly expenditure of the Government amounts to 1,400 dollars on an average, irrespective of extraordinary expenses. If, under the provision made in section 2, Article III, saying that the compensation of the Chief Justice shall be the first charge upon the revenues of the Samoan Government, I am bound to keep separate the amount of that compensation for the current year; then there are only 500 dollars left for the Samoan Government to dispose of, for the payment of that salary has commenced since the 1st October, 1891, and the balance, which must be paid to the Chief

Justice from the 1st March until the 30th September of this year, amounts to 3,500 dollars.

Some revenues are still to be expected, yet they will have no other effect than to slightly postpone the insolvency of the Government. I have repeatedly and strongly urged upon King Malietoa the necessity to go on with the collection of the capitation tax, which hitherto has been collected only up to the 15th February, 1891.

Even when the King recently demanded an increase of his own allowance I explained to him that there could not be the question of any increase in the regular expenses so long as no further taxes were collected from his subjects.

Nevertheless, the continual reply of the King was that under the present circumstances such a measure would only result in a general refusal of payment, and would, at the same time, strengthen the party of Mataafa.

I have not met anybody here who is of a different opinion.

As I have had the honour to state already in my letter dated the 17th July, 1891, addressed to the Consular Representatives here, the Samoans generally do not realize the value of those benefits which they shall gain at the price of the taxes.

People who know them are afraid that such will be the case, not only during the present disturbances caused by Mataafa, but for years to come. In fact, I believe it must be admitted that not only the principal institutions created by the Berlin Conference, but also any step in the way of organizing the administration of the country, will impart the greater share of its advantages, not to the Samoans, but to the merchants and traders, that is to say, to the white residents.

Also this point of view seems to justify the proposal that the Government of the islands be allowed a greater fraction of the proceeds arising from the trade of the country than they are at present.

Much further than the alteration I have taken the liberty of recommending goes an idea which has been repeatedly discussed by several citizens of Apia.

They plead that the export duties ought to be entirely expunged, while the statistical import duty on all merchandize and goods (No. 9 A, section 2, Article VI) should be raised to 10 per cent. *ad valorem*.

I need hardly say that, in my view, such an arrangement, if combined with the proposed distribution between the Municipality of Apia and the Samoan Government, would be more advantageous to all interested parties than that which I have dealt with. Still it may be advisable to adjourn the consideration of such an ample scheme and to restrain any present action towards the settlement of the existing difficulties.

It is to be hoped that this purpose will be reached if the three Treaty Powers will be pleased to comply with my above suggestion.

Owing to the unfortunate curtailment of the collection of the direct taxes and the financial situation of the Government, which I have had the honour to explain, a telegraphic reply to my request might result in the prevention of serious issues.

(Signed) FRHR. SENFFT VON PILSACH.

Apia, February 29, 1892.

No. 179.

M. Cedercrantz to the Marquis of Salisbury.—(*Received April* 2.)

My Lord, *Mulinuu, Samoa, March* 2, 1892.

I HAVE the honour to acknowledge the receipt of a joint note from the Consular Representatives of Great Britain, Germany, and the United States, dated the 27th February, 1892, addressed to me in pursuance of telegraphic instructions received, and requesting me to explain to the Treaty Powers my absence from Samoa during the months of September and October 1891.

From this communication I must conclude that the three Powers regard the said absence such a misconduct in office as mentioned in section 3, Article III, of the Berlin General Act, and, therefore, have under consideration to request my removal, and that the Powers wish to allow me an opportunity of explaining the matter.

Availing myself of this opportunity, I have the honour to give the following explanation.

I left Samoa on the 5th September last for Fiji. The object of my going there was to acquaint myself with the administration of that Colony. Under section 8, Article III, of the Berlin Act, I am entitled to recommend to the Samoan Government certain Laws, but as scarcely any Laws were in existence when I arrived in the country a thoroughly new system had to be established. I therefore deemed it advisable to acquaint myself with the system of Laws in force in Fiji, as having during a number of years proved highly successful in governing a people whose customs and habits are somewhat similar to the Samoans. During my stay of eleven days in Fiji I was, by the kindness of the Governor, Sir John B. Thurston, afforded an opportunity of learning what I desired. I then proceeded direct to Melbourne. There being no direct communication by steamers from Fiji to Samoa, I had the option of returning viâ New Zealand or Australia. My choice of the last-mentioned route was owing to my desire to acquaint myself with the so-called Torrens system for the registration of land titles, which is supposed to have reached its highest perfection in the Colony of Victoria. It was my intention to introduce the same system in Samoa in conjunction with the investigation of claims of foreigners to land in Samoa now proceeding. After studying, by the kindness of Mr. de Verdon, the Head Officer of the Office of Titles at Melbourne, the system mentioned above, I then returned by the first steamer that left for Samoa after my arrival in Australia.

Since my return I have, in my capacity as Judge of the Supreme Court, issued an extensive Law to provide for the transfer of land by registration of titles, and a Law to regulate dealings between foreigners and natives. I have also framed a Law to settle the native administration; a Law by which the jurisdiction of the Native Courts has been arranged; a Law containing provisions for procedure in the Native Courts; and several other Laws which have been recommended by me to, and passed by, the Samoan Government. All these Laws, copies of which have been forwarded in duplicate to the three Consulates at Apia, are prepared with a view to meet the requirements of local circumstances, and are to a greater or less extent based upon observations I made during my absence. This is also the case with a complete Penal Code which I have framed, and which is now in process of translation.

This is my explanation of my absence from Samoa during the months of September and October 1891, an absence which was entirely in the interests of my office.

I feel obliged, in addition to my explanation, to make some further remarks.

On my way from Europe to Samoa I had the honour to pay my respects at the Ministries for Foreign Affairs at Berlin and Washington, and at the Foreign Office in London. I then expressed my intention of visiting Fiji and New Zealand as soon as possible after my arrival in Samoa for the purpose of studying the systems of ruling native races. In this intention I was encouraged, and I received official letters of introduction from the Colonial Office in London to the officers administering the Governments of the said two Colonies. I consider it, therefore, impossible that the mere fact of my absence should have prevailed upon the Treaty Powers to take this step.

This being so, and as I cannot suppose that any dishonest motive has been suggested for my departure, I am necessarily led to the conclusion that my departure and absence have been represented to the Powers as endangering the state of affairs in Samoa by the temporary standstill in the exercise of the political and judicial powers conferred upon me and the Supreme Court. It is obvious that I myself must have been fully aware of the political situation and the probabilities of business for the Supreme Court during my absence, and, in my opinion, the circumstances were never more favourable for my intended journey.

When I had fixed the day of my departure, I notified, among others, the three Consuls. I then received a joint note from them, in which they drew my attention to the serious and unfortunate consequences which might arise owing to my absence from Samoa at the then political crisis, and expressed the hope that I would postpone my projected departure until their respective Governments had been communicated with, in order that arrangements might be made to appoint a substitute during my absence.

I have never failed to give due consideration to any request of any or all of the Consuls or other officials, still I must reserve the determination of my actions for my own judgment. In this particular case I did not, after careful reconsideration, see any imminent danger, or any possibility of change in the political situation, which

had not altered in any material way for some months. As to the administration of justice, I wish to state that the Clerk's office was continually open, and the Clerk, who is a professional lawyer, and in whom I have the utmost confidence as to the conduct of all preliminary proceedings, civil or criminal, in regular attendance.

I did not consider the reasons urged by the Consular Representatives for delay sufficiently strong as compared with my reasons for believing it to be the most favourable time for a few weeks' absence and the results I expected from my journey for the public benefit. Delay was not possible in my opinion. If I had complied with the request of the Consuls, I should surely have been obliged to relinquish my intention. The Land Commission were to commence their ~~investigations~~ of land claims on the 1st October, and during the first month there was little reason to expect many Reports; but as soon as the Reports once began to flow into the Courts I should certainly have no spare time. Moreover, I was most anxious to have several Laws completed and published, in the hope that they would have some beneficial pacifying effect upon the internal troubles of the country.

On my return to Samoa I was glad to find that my suppositions proved correct.

The political situation was still unchanged, and no matter of importance had been presented at the Clerk's Office. One serious criminal case had occurred, but was, on my return, still in the stage of preliminary examination, which is, according to the Rules and Regulations of the Court, conducted by the Clerk. After inspection, I found that all the duties of the Court officials during my absence had been well and properly performed.

I must therefore emphatically deny the truth of any statement to the effect that my absence from Samoa during the months of September and October 1891 has in any way been injurious to this country or to the administration of justice therein.

I have only to add that identical letters are forwarded by the same mail to their Excellencies the Reichs-Chancellor Count von Caprivi, and the Secretary of State Mr. Blaine.

I have, &c.
(Signed) C. CEDERCRANTZ.

No. 180.

King Malietoa to the Marquis of Salisbury.—(Received April 2.)

My Lord, *Apia, March* 2, 1892.

ON the advice of the President of the Municipal Council of Apia, I take the liberty to forward to you an abstract from a letter which I have received from the Natives' Advocate, the Rev. E. A. Claxton, respecting the proceedings of the Samoan Land Commission.

Having no authority over the members of that Commission, I beg leave to draw your Lordship's attention to the facts which are stated in the abstract. I shall be greatly obliged if you will take such steps in this matter as you may deem expedient, as well for the benefit of my people as for the successful working of the Land Commission.

I am, &c.
(Signed) MALIETOA, *King of Samoa.*

Inclosure in No. 180.

Abstract of a Letter to His Majesty Malietoa, King of Samoa, from the Natives' Advocate.

YOUR Majesty did me the honour to place in my hands the care of the interests of Samoans in the investigation of foreigners' titles to lands in Samoa. I accepted the position only after much deliberation, because I thought the trust so responsible and important. I expected many difficulties, hard work, and a great deal of anger from foreign claimants whose titles it would often be my duty to contest.

But I have met with one difficulty which I did not expect, and which I ought not to be called upon to contend with. I mean the manifest disregard of native rights hitherto shown by the Commissioners, which has led them so far even as to set aside the just provisions of the Berlin Treaty for the protection of those rights.

1. The Commission claim the right to decide and finally settle disputed claims; yet the only public notice they propose to give of the lands claimed was by an "Index of Claims," containing name of claimant, name of parcel of land, and its locality (see printed Rules of Procedure), which was kept on the Commission room's table.

Now they are publicly delivering Judgments instead of sending their Reports to the Supreme Court; and they do not yet possess a survey plan of the district, by which to test and on which to accurately locate the claims.

2. Although the Natives' Advocate is manifestly regarded in the Treaty and the Protocols as a necessary part of the Commission, and is to assist the Commission in their investigation of titles to lands, he alone of all connected with it, and the special representative of native interests, was denied access to the deeds and other written evidence lodged with the Commission by claimants.

Thus, a limitation was placed upon the Natives' Advocate which confined his assistance to the duties of counsel for native objectors, and excluded him from assisting in the examination of undisputed claims.

The Commission have carried their policy of extrusion of the Natives' Advocate so far, that a paper read by a claimant as argument, and afterwards handed to the Commission, has been refused to the Natives' Advocate, on the ground that it is a private paper in the hands of the Commission.

3. Having announced a ruling on the 12th October, 1891, that in the hearings of contested claims the claimant would be regarded as plaintiff and the objector as defendant; that the plaintiff would be required to substantiate his claim by proving that his title was not impeachable under any of the clauses of Article IV of the Treaty; and, having proceeded strictly on those lines till the 9th February, 1892, then the Commission required the native objector to put in evidence before plaintiff had completed his case. The Natives' Advocate appealed to the ruling aforesaid, whereupon a new ruling was made throwing the burden of proof upon the native objector.

4. In the hearing of a contest on Claim No. 3058, the Commissioners received in evidence the papers lodged with Claim No. 3064. Counsel for objector argued on some of those papers against the claim. He was then told by a Commissioner that the papers of No. 3064 were not put in; and when reminded that some of them had already been used by claimant, the Commissioner asserted that those now appealed to were forgeries. Yet those papers had been received by the Commission as evidence for the claimant.

5. A Commissioner has repeatedly advised counsel for claimants to "leave well alone," and desist from putting further questions to a witness, and has repeatedly interfered with legitimate cross-examination by the Natives' Advocate of claimant's witnesses.

Advantage has been taken of the inexact manner of Samoan speech, and the scanty knowledge of English on the part of the half-caste interpreter, to turn the answers of witnesses to the disadvantage of the native objector and in favour of the claimant.

I respectfully submit the above to your Majesty's consideration as facts which have a very momentous bearing upon the interests of Samoans, and which contradict the description of the Commission which the Treaty of 1889 declares shall be appointed.

No. 181.

Mr. B. Haggard to the Marquis of Salisbury.—(*Received April* 4.)

My Lord, *Apia, Samoa, South Seas, February* 23, 1892.

I HAVE the honour to inclose, for your Lordship's perusal and consideration, respectfully, the following, viz.:—

A copy of a letter from the Chief Justice of Samoa to the Samoan Land Commissioners, dated the 13th February, 1892.

A copy of a letter from the above to the Commissioners, dated the 18th February, 1892.

A copy of a letter from the Samoan Land Commissioners to the Chief Justice of Samoa, dated the 19th February, 1892.

Also a joint Memorandum prepared by the Samoan Land Commissioners, for the consideration of their respective Governments, the result of, and arising from, this correspondence (and an interview held) with the Chief Justice.

These documents speak for themselves, and will, I trust, show and convince your Lordship that this state of affairs is none of our seeking (us Commissioners).

The Land Commissioners were steadily daily proceeding with their work (and have continued to do so), when, to their surprise, this question was raised.

I respectfully request that I may receive instructions from your Lordship upon the matter, and I have, &c.

(Signed) BAZETT M. HAGGARD.

Inclosure 1 in No. 181.

M. Cedercrantz to Samoan Land Commission.

Gentlemen, *Mulinuu, February* 13, 1892.

I SHOULD be much obliged if you would be kind enough to let me know, at your earliest convenience, whether the Land Commission in performing their duties have been and are guided by the opinion that the Commissioners, if unanimous, have the power and authority of deciding valid disputed claims.

If such has been and is the case, you would oblige me greatly by granting me the favour of a meeting with you at the office of the Court-house at Mulinuu at any time you may be pleased to appoint, in order to promote an understanding of the interpretation of Article IV of the Berlin General Act.

I have, &c.

(Signed) C. CEDERCRANTZ.

Inclosure 2 in No. 181.

M. Cedercrantz to Samoan Land Commission, February 18, 1892.

[See Inclosure 1 in No. 177.]

Inclosure 3 in No. 181.

Samoan Land Commission to M. Cedercrantz, February 19, 1892.

[See Inclosure 2 in No. 177.]

Inclosure 4 in No. 181.

Memorandum by Samoan Land Commissioners.

ON the 13th February, 1892, the Samoan Land Commission received from the Chief Justice of Samoa a letter, a copy of which is inclosed herewith, and which they respectfully request may be read in connection with this Memorandum.

In compliance with the request contained in the said letter, they saw, and had a protracted interview with, the Chief Justice, on the 15th February instant; the subject for consideration being the interpretation of Article IV of the Berlin General Act of 1889, and which was practically limited by the Chief Justice to sections 6 and 11.

Section 6 reads as follows, viz. :—

"All disputed claims to land in Samoa shall be reported by the Commission to the Court, together with all the evidence affecting their validity ; and the Court shall make final decision thereon in writing, which shall be entered on its record.

Undisputed claims and such as shall be decided valid by the unanimous voice of the Commission shall be confirmed by the Court in proper form in writing, and be entered of record."

The Chief Justice maintained that the words "as shall be decided valid by the unanimous voice of the Commission" had no reference or application to *disputed* claims, and only a contingent, or modified application, *to* undisputed claims; and that it was for *him* or his Court to decide whether a claim was or was not disputed; and, also, that it was his prerogative to say up to what point of time, prior to the final ending of the case, a disputant might enter; and, also, as to *who* might or might not be a disputant; and said, further, that he was not certain that an entire stranger in interest might not enter in any case, at any time, as a disputant.

Also, the Chief Justice further maintained (in effect) that the business of the Commission, at least in all disputed claims, was to receive, collect, and collate the evidence in each case in preparation for his further examination, consideration, and decision, and that whatever power of final decision (if any) the Commission had was limited to undisputed claims. *In brief, that he had the right to reopen and rehear any or every case in his Court, disputed or otherwise, whatever the unanimous opinion and decision of the Commission had been.*

He further maintained, as to section 11, that as the word "Commission" or "Commissioners" is not there used, except in sub-section (*b*), which he entirely ignored, the Commission have no duties whatever under that section. That in examining or passing upon a claim it was not for the Commission to inquire as to whether or no a claim was invidious or antagonistic to the provisions of sub-sections (*a*), (*b*), (*c*), and (*d*) of section 11, and that the *Commission, by unanimous voice even, could not "reject" a claim because of its invalidity under the application of said provisions of said sub-sections or for any cause whatever.*

On the other hand, the Commissioners (all being present) frankly informed the Chief Justice that, from the beginning of its works, and then, it had been the opinion of the Commission that, under the provisions of section 6, it had the power and duty of final decision, when of unanimous voice, as to all claims disputed, as well as undisputed, excepting cases arising under sections 8 and 10, where the decision of the Commission, whether unanimous or otherwise, in certain cases is made subject to his confirmation or approval. They pointed out to him that if his position or interpretation was correct, it was entirely superfluous to give him the power to confirm and approve, as in said sections 8 and 10, and further, that in order to maintain his position successfully the words "and such as shall be decided valid by the unanimous voice of the Commission" in paragraph 2 of section 6 must be treated as without significance or meaning, and to do so, as it seemed to them, would be unwarrantable, and an elimination of language that could not be maintained or justified. Various other considerations in support of their interpretation were respectfully called to the attention of the Chief Justice, but without avail, and thus ended the interview.

On the 18th instant the Commission received another letter from the Chief Justice, of that date, on the same subject, to which reply was made on the 19th instant, copies of which letter and reply are herewith inclosed, and we respectfully request that the same may be read in connection with this Memorandum.

But for the above-mentioned letter of the Chief Justice of the 18th instant, it would not necessarily be correct to attach much importance to the subject of this Memorandum as bearing on the working of the Commission, as it would seem that the possible assumption of power by it, in assuming to make final decisions when unanimous, would not in the least be in the way of the Chief Justice, when the claims with all the evidence come to his hands, as they all must, doing with them in reference to a new trial (if his interpretation be correct) as he should be advised or think best. In other words, our decisions, although treated by us as final, could have no effect upon a claim, if unauthorized, and in violation of the terms of the Treaty; and so we reasoned, and attached no great importance to the interview and the differences there made evident; but in view of the said letter of the Chief Justice of the 18th instant, from the contents of which it may be fairly inferred that he assumes the right to fashion and control the "mode of procedure" of the Commission, it seemed to us to be quite in order to lay the whole matter before our respective Governments; hence this communication.

This Memorandum is submitted to our respective Governments—

1. Because we recognize and understand that, in the performance of our duties as Commissioners, we are the servants of the Powers whence we received our

appointments, and are subject only to these Powers, and from them only should receive instructions or directions.

2. Because it appears by the accompanying correspondence that the differences between the Chief Justice and the Commission are radical, and perhaps vital, and bear directly upon the duties and functions of the Commission, and not only involve the interpretation of the Treaty as to whether the Commission has certain powers of final decision when unanimous, but also raises the important questions: May the Chief Justice direct the Commission as to its "mode of procedure" in its work? and, Should the Commission subordinate its ideas and opinions (when at variance) to those of the Chief Justice?

3. Because the Commission, if correct in its position, should not be interfered with or hampered in the performance of its duties, and, on the other hand, if it is in error, it should be instructed to the end that its duties may be performed correctly, and this unfortunate difference between it and the Chief Justice be removed.

4. Because of the consequences and importance of the questions involved to the foreign or alien claimants. In any event there must be a full and thorough investigation before the Commission, the hearing in some cases continuing several days (and in one case ten days or more). In the most complicated, and those wherein are involved the greatest pecuniary consideration, claimants appear before the Commission by counsel, and in many of these cases the expenses of the trial, on hearing to the claimant, must be large.

Now, was it the intention of the Signatory Powers to the Treaty that claimants should be liable to have all this go for naught, in cases where the Commission are unanimous in their findings and decision?

Bearing strongly on the importance of the question involved is the fact that since the Treaty was entered into, and now, the buying or selling of real estate has been, and is, at a standstill, by reason of the uncertainty as to title, and must remain so until the titles have been confirmed under the terms of said Article IV, and this entails no small loss or slight inconvenience upon the claimants.

If the Chief Justice is correct in his interpretation, this condition of chaos and instability must continue for an indefinite period; while under the interpretation of the Commission all cases wherein they are unanimous can be set at rest in a comparatively short time, and it is safe to say that not one-tenth (and probably not one-twentieth) of the cases would be subject to a rehearing before the Chief Justice, for want of unanimity by the Commission.

The pecuniary interest of resident subjects and citizens of the three Powers involved in these considerations can hardly be over-estimated.

5. Because, in the opinion of the Commission, its duties are sufficiently arduous at the best, and it therefore entertains the hope that it may receive early instruction and direction.

All of which is respectfully submitted.

(Signed) E. J. ORMSBEE,
BAZETT M. HAGGARD,
C. EGGERT,
Commissioners.

Apia, Samoa, February 23, 1892.

No. 182.

Mr. B. Haggard to the Marquis of Salisbury.—(Received April 4.)

My Lord, *Apia, Samoa, March* 1, 1892.

I HAVE the honour to inform you that my German colleague, Herr C. Eggert, left to-day by steam-ship "Lubeck" under medical orders for Germany. This prevents us for a space of time from trying contested cases, but my United States' colleague, the Honourable E. J. Ormsbee, and myself intend to continue daily inspecting and verifying documents, and doing preliminary work pending the arrival of the new Imperial German Land Commissioner, who, we hear, will shortly be here. We can facilitate work in the future a great deal by this, and save much time.

I had the honour to address to your Lordship a despatch dated the 23rd February, 1892, inclosing therewith a joint Memorandum prepared by the Samoan Land Commissioners, for the consideration of their respective Governments, similar copies of which were sent to their Governments respectively by each Commissioner. Also copies of certain letters similarly sent in connection with the subject-matter of those

communications. I have now the honour to inform your Lordship that on the 24th February the town of Apia was placarded with two Proclamations, one being in the English, and the other in the Samoan language, made by the Chief Justice of Samoa. I have the honour to inclose the same, with a certified translation of the one in Samoan.

A perusal of the translation will show how the two differ. The Proclamation in English is considered by the Commissioners immaterial. Not so the one in Samoan, addressed to the Samoan people. We were aware, as is pointed out in our joint Memorandum to your Lordship, what were the real views of the Chief Justice, as to what power he had, or had not, over all claims to land, even if undisputed, under Article IV of the Berlin General Act, and I venture to draw your Lordship's attention to this, that this Samoan Proclamation distinctly asserts it as unrestricted in any way, though the one in English admits some limitation. I also venture to point out that the Chief Justice had been informed in writing that we were about to refer the question he had raised to our respective Governments, upon the 19th February, and therefore, at this juncture, these Proclamations seem superfluous, especially as he had no case before him. Also the question of expense and delay, we referred to in our Memorandum, has been made more clear with regard to this Court, a Table of Fees having been published, which shows that any claimant, even having only an undisputed claim, must pay at least 3*l.* 3*s.* for his title, and, if it is disputed, bear the expense of, and consequent delay of, a trial.

I have, &c.

(Signed) BAZETT M. HAGGARD.

Inclosure 1 in No. 182.

Proclamation (in English).

[See Inclosure 4 in No. 177.]

Inclosure 2 in No. 182.

Proclamation.

(Translation from Samoan.)

I KNOW that it is the opinion of many persons in this country that the Land Commissioners have the power of giving final decisions in trials concerning land in Samoa claimed by foreigners; and that the said Commissioners are able to confirm to foreigners their land deeds and set right and finally decide objections by Samoans.

Therefore I, C. Cedercrantz, the Chief Justice of Samoa, in accordance with the expressed wish of His Majesty Malietoa the King, make known to all Samoans that with the Supreme Court at Mulinuu alone rests the power in such matters of deciding contentions concerning land in Samoa. The Supreme Court is the permanent part of your Government.

The duties of the Land Commissioners are to carefully examine all deeds of land of foreigners, together with all objections and all contentions arising therefrom; and endeavour to effect a first compromise between the two contending parties; thereafter they shall report in writing to the Supreme Court all evidence of whatever nature, together with their opinion whether it is proper that this land deed or that land deed be confirmed or proper that it be rejected.

Thereafter the trial in the Supreme Court shall take place and the final decision in the matter be made; for the Supreme Court continually exists to carry on trials and contentions caused through land questions in Samoa.

(Signed) C. CEDERCRANTZ.

Mulinuu, February 23, 1892.

The above is a true and verbatim copy of the Proclamation in the Samoan language dated the 23rd February, 1892, issued by the Chief Justice of Samoa.

(Signed) R. SKEEN, *Secretary.*

Apia, Samoa, February 29, 1892.

No. 183.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received April 4.)

My Lord, *Samoa, March* 1, 1892.

I HAVE the honour to inform your Lordship that, since my last communication, the general state of affairs has continued to improve, having been, and still remaining, quiet and uneventful, with one exception, which I report separately. The telegrams in the English and colonial papers regarding warlike proceedings in Samoa are so distorted as to bear no resemblance to the real facts.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

No. 184.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received April 4.)

My Lord, *Samoa, March* 1, 1892.

I HAVE the honour to inclose a copy of a letter received by me from M. Cedercrantz, stating that he, as Judge of the Supreme Court of Samoa, has enacted "The Real Property Ordinance, 1891," of which I inclose a copy.*

I also inclose a copy of the previous Ordinance similarly enacted by the Chief Justice.*

It would not appear that under section 8, Article III, of the Berlin Treaty, the Chief Justice has the power of himself enacting laws, and such a power might prove to be arbitrary, as there is practically no appeal.

Under section 8, Article III, it is provided that "the Chief Justice may recommend to the Government of Samoa the passage of any law," &c.

I shall not enter any objection or protest unless instructed by your Lordship.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

Inclosure in No. 184.

M. Cedercrantz to Consul Cusack-Smith.

Sir, *Mulinuu, February* 24, 1892.

I HAVE the honour to forward to you herewith two copies of "The Real Property Ordinance, 1891," enacted by me as Judge of the Supreme Court of Samoa, on the 7th December, 1891.

I have, &c.

(Signed) C. CEDERCRANTZ.

No. 185.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received April 4.)

My Lord, *Samoa, March* 1, 1892.

I HAVE the honour to inclose a copy of a letter, with two inclosures, dated the 23rd February, from the Chief Justice, reporting that a difference had arisen between him and the Land Commission as to the interpretation of Article IV of the Berlin Treaty.

As Mr. Land Commissioner Haggard informs me that he has fully reported the matter, it is unnecesary for me to do so.

The Proclamation issued by the Chief Justice (translation inclosed) in the Samoan language has greatly disparaged the Land Commission in the eyes of the Samoans, and will increase the difficulties of its work in the future.

It would save extra expense to white claimants to lands, almost all of whom have been represented by counsel before the Land Commission, on the understanding that

* Not printed.

except in cases where the Commissioners were not unanimous there would be no further hearing before the Supreme Court, if some compromise could be arranged whereby only those claims would be reopened and reheard in which a definite appeal to the Supreme Court is made by one of the parties which appeared at the hearing before the Land Commission.

With a little conciliation, an amicable arrangement could be secured by the Chief Justice.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

Inclosure 1 in No. 185.

M. Cedercrantz to Consul Cusack-Smith.

Sir, *Mulinuu, February* 23, 1892.

I HAVE the honour to forward to you herewith copies of two Proclamations issued by me to-day.

I regret to have to inform you that there is a radical difference of opinion between myself and the Land Commissioners as to the interpretation of Article IV of the Berlin General Act; that the Land Commissioners in the performance of their duties have not been governed by the provisions of this Act; and that they do decline to conform to my opinion and adapt themselves thereto by making such alterations in their present mode of procedure as are requisite.

I have, therefore, deemed it my duty to issue these Proclamations, the one in order to protect the foreign residents of the country from incurring eventual losses of property; the other, at the request of His Majesty King Malietoa, in order to prevent a general ill-feeling amongst the native Samoans which would undoubtedly lead to serious political disturbances in the country.

I have, &c.
(Signed) C. CEDERCRANTZ.

Inclosure 2 in No. 185.

Proclamation.

[See Inclosure 4 in No. 177.]

Inclosure 3 in No. 185.

Public Notice.

[See Inclosure 2 in No. 182.]

No. 186.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received April 4.)

My Lord, *Samoa, March* 2, 1892.

I HAVE the honour to acknowledge the receipt of your Lordship's telegram received by Lord Onslow on the 5th February, and by me on the 25th February, instructing me to address, in concert with my colleagues, a joint note to the Chief Justice respecting his absence from Samoa in 1891. As the instructions received by my colleagues did not contain the words "contrary to the wishes of the King and Consuls," I agreed to the joint note, of which I inclose a copy.

I inclose a copy of the reply of the Chief Justice, dated the 1st March.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

Inclosure 1 in No. 186.

The Consuls of Great Britain, Germany, and the United States to M. Cedercrantz.

Sir, *Samoa, February* 27, 1892.

WE have the honour to inform you that we have received telegraphic instructions to address to you, on behalf of the Treaty Powers, a joint note requesting you to explain your absence from Samoa during the months of September and October 1891.

We shall be glad to receive your reply in time for this mail.

We have, &c.

(Signed) H. H. SEWALL, *United States' Consul-General.*
T. B. CUSACK-SMITH, *Her Britannic Majesty's Consul.*
BIERMANN, *Imperial German Consul.*

Inclosure 2 in No. 186.

M. Cedercrantz to the Consuls of Great Britain, Germany, and the United States.

Gentlemen, *Mulinuu, March* 1, 1892.

I HAVE the honour to acknowledge the receipt of your joint note of the 27th February last, addressed to me in pursuance of telegraphic instructions received, and requesting me to explain to the Treaty Powers my absence from Samoa during the months of September and October 1891.

I have the honour to inform you that I shall send my explanation by this mail.

Seeing that the instructions do not impose upon you as a duty the forwarding to the Governments of my explanation, I shall not avail myself of your kind offer in this respect, for which, however, I beg to express my best thanks.

I have, &c.

(Signed) C. CEDERCRANTZ.

No. 187.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received April 4.)

My Lord, *Samoa, March* 2, 1892.

I HAVE the honour to inclose copy of a letter received last night from Mr. Stevenson, forwarding to me the text of parts of the Berlin Treaty as altered by a Committee, and approved by a public meeting.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

Inclosure 1 in No. 187.

Mr. Stevenson to Consul Cusack-Smith.

Sir, *Apia, March* 1, 1892.

AT a public meeting held here last night, to the Chair of which I was called, certain proposed alterations in the Berlin Treaty were discussed, and I was instructed as Chairman to forward, and have now the honour of inclosing to you, the text agreed upon. It was the request of the meeting that this should by you be transmitted to your Government, in the hope that your Government might be willing to consider the opinion of persons on the spot and immediately acquainted with the business and interests involved.

I have, &c.

(Signed) ROBERT LOUIS STEVENSON.

Inclosure 2 in No. 187.

SAMOAN FINAL ACT.

THE Committee who prepared these suggested alterations feel that some apology is due for the somewhat rough and irregular manner in which the suggestions are now forwarded for transmission to the foreign Governments, but as the Committee deemed it of the utmost importance that the suggestions should be at once sent to the three Powers, a feeling which is generally shared by the public at large, the very limited time at their disposal has compelled them to forward the suggestions in the present form instead of rewriting them at length.

(Signed) W. COOPER,
Chairman of Committee.
T. MEREDITH.
J. C. EDWARDS.
A. R. DECKER.
R. T. CHATFIELD.
S. J. CUSACK.

[The proposed alterations and insertions are printed in italics, and the omissions in erased type.]

ARTICLE I.—*A Declaration respecting the Independence and Neutrality of the Islands of Samoa, and assuring to the respective Citizens and Subjects of the Signatory Powers Equality of Rights in said Islands; and providing for the immediate Restoration of Peace and Order therein.*

It is declared that the islands of Samoa are neutral territory, in which the citizens and subjects of the three Signatory Powers have equal rights of residence, trade, and personal protection. The three Powers recognize the independence of the Samoan Government, and the free right of the natives to elect their Chief or King, and choose their form of Government according to their own laws and customs. Neither of the Powers shall exercise any separate control over the islands or the Government thereof.

It is further declared, with a view to the prompt restoration of peace and good order in the said islands, and in view of the difficulties which would surround an election in the present disordered condition of their Government, that Malietoa Laupepa, who was formally made and appointed King on the 12th day of July, 1881, and was so recognized by the three Powers, shall again be so recognized hereafter in the exercise of such authority, unless the three Powers shall by common accord otherwise declare; and his successor shall be duly elected according to the laws and customs of Samoa.

ARTICLE II.—*A Declaration respecting the Modification of existing Treaties, and the Assent of the Samoan Government to this Act.*

Considering that the following provisions of this General Act cannot be fully effective without a modification of certain provisions of the Treaty heretofore existing between the three Powers, respectively, and the Government of Samoa, it is mutually declared that in every case where the provisions of this Act shall be inconsistent with any provision of such Treaty or Treaties, the provisions of this Act shall prevail.

Considering, further, that the consent of the Samoan Government is requisite to the validity of the stipulations hereinafter contained, the three Powers mutually agree to request the assent of the Samoan Government to the same, which, when given, shall be certified in writing to each of the three Governments through the medium of their respective Consuls in Samoa.

ARTICLE III.—*A Declaration respecting the Establishment of a Supreme Court of Justice for Samoa, and defining its Jurisdiction.*

Section 1. A Supreme Court shall be established in Samoa, to consist of one Judge, who shall be styled Chief Justice of Samoa, and who shall appoint a ~~Clerk and~~

~~a Marshal of the Court~~ *the necessary and proper officers of the Court;* and record shall be kept of all orders and decisions made by the Court, or by the Chief Justice in the discharge of any duties imposed on him under this Act. ~~The Clerk and Marshal shall be allowed reasonable fees to be regulated by order of the Court.~~

Sec. 2. With a view to secure judicial independence and the equal consideration of the rights of all parties, irrespective of nationality, it is agreed that the Chief Justice shall be named by the three Signatory Powers in common accord; or, failing their agreement, he may be named by the King of Sweden and Norway. He shall be learned in law and equity, of mature years, and of good repute for his sense of honour, impartiality, and justice.

His decision upon questions within his jurisdiction, *subject to the exceptions hereinafter provided,* shall be final. He shall be appointed by the Samoan Government upon the certificate of his nomination, as herein provided. He shall receive an annual salary of six thousand dollars ($6,000) in gold, or its equivalent, to be paid the first year in equal proportions by the three Treaty Powers, and afterward out of the revenues of Samoa apportioned to the use of the Samoan Government, upon which his compensation shall be the first charge. Any deficiency therein shall be made good by the three Powers in equal shares.

The powers of the Chief Justice, in case *of his temporary absence from Samoa, or in case* of a vacancy of that office from any cause, shall be exercised by the ~~President of the Municipal Council,~~ *Consular Representatives of the three Signatory Powers acting together, or should the Consular Representatives not be unanimous in agreeing to perform the duties and functions of such office, then they shall, with the consent of the Samoan Government, appoint an Acting Chief Justice, who shall hold office during such temporary absence, or, in case of vacancy,* until a successor shall be duly appointed and qualified.

Sec. 3. In case either of the four Governments shall at any time have cause of complaint against the Chief Justice for any misconduct in office, such complaint shall be presented to the authority which nominated him, and if, in the judgment of such authority, there is sufficient cause for his removal, he shall be removed. If the majority of the three Treaty Powers so request, he shall be removed. In either case of removal, or in case the office shall become otherwise vacant, his successor shall be appointed as hereinbefore provided.

Sec. 4. The Supreme Court shall have jurisdiction of all questions arising under the provisions of this General Act, and the decision or order of the Court thereon shall be conclusive upon all residents of Samoa, *subject to the exceptions hereinafter provided.* The Court shall also have appellate jurisdiction over ~~all Municipal Magistrates and officers~~ *the Municipal Magistrate of Apia, and all other Magistrates or Judges appointed by the Samoan Government throughout all the islands of Samoa.*

Sec. 5. ~~The Chief Justice is authorized at his own discretion, and required upon written request of either party litigant, to appoint Assessors, one of the nationality of each litigant, to assist the Court, but without voice in the decision.~~

In civil cases the Chief Justice is authorized in his discretion, and required upon written request of either party litigant, to appoint Assessors, not more than two of the nationality of each litigant, to assist the Court, but without voice in the decision. Such Assessors may, however, require that their opinion in such cases shall be recorded by the Court.

(*a.*) *In criminal cases the Chief Justice is also authorized, in his own discretion, and required upon written request of either the accused or the prosecutor, to appoint not more than four nor less than two Assessors to assist the Court, but without voice in the decision. Such Assessors may, however, require that their opinion in such cases shall be recorded by the Court. In both criminal and civil cases such Assessors shall be men of good repute and character in the community.*

Sec. 6. In case any question shall hereafter arise in Samoa respecting the rightful election or appointment of King or of any other Chief claiming authority over the islands; or respecting the validity of the powers which the King or any Chief may claim in the exercise of his office, such question shall not lead to war, but shall be presented for decision to the Chief Justice of Samoa, who shall decide it in writing, conformably to the provisions of this Act, and to the laws and customs of Samoa not in conflict therewith; and the Signatory Governments will accept and abide by such decision.

Sec. 7. In case any difference shall arise between either of the Treaty Powers and Samoa which they shall fail to adjust by mutual accord, such difference shall not be held cause for war, but shall be referred for adjustment on the principles of justice and equity to the Chief Justice of Samoa, who shall make his decision thereon in writing.

Sec. 8. The Chief Justice *shall* recommend to the Government of Samoa the passage of any laws which he shall consider just and expedient for the prevention and punishment of crime and for the promotion of good order in Samoa outside the Municipal District, and for the collection of taxes without the District.

Sec. 9. Upon the organization of the Supreme Court there shall be transferred to its exclusive jurisdiction—

(1.) All civil suits concerning real property situated in Samoa, and all rights affecting the same.

(2.) ~~All civil suits of any kind between natives and foreigners or between foreigners of different nationalities.~~

All civil suits of any kind, with the exceptions hereinafter provided, between natives and foreigners, or between foreigners of different nationalities, or between foreigners of the same nationality, who are not subject to any Consular jurisdiction.

(*a.*) *All actions arising within the Municipality on simple contracts, or for the recovery of debts where the amount claimed or in dispute does not exceed 200 dollars, shall be heard and determined by the Municipal Magistrate, subject to the right of appeal contained in Article V, section 4.*

(3.) All crimes and offences committed by natives against foreigners, or committed by such foreigners as are not subject to any Consular jurisdiction, subject, however, to the provisions of section 4, Article V, defining the jurisdiction of the Municipal Magistrate of the District of Apia.

Sec. 10. The practice and procedure of common law, equity, and Admiralty, as administered in the Courts of England, may be, so far as applicable, the practice and procedure of this Court, but the Court may modify such practice and procedure from time to time as shall be required by local circumstances. The Court shall have authority to impose, according to the crime, the punishment established therefor by the laws of the United States, of England, or of Germany, as the Chief Justice shall decide most appropriate, or, in the case of native Samoans and other natives of the South Sea Islands, according to the laws ~~and customs~~ of Samoa.

Sec. 11. Nothing in this Article shall be so construed as to affect existing Consular jurisdiction over all questions arising between masters and seamen of their respective national vessels; ~~nor~~ *but in all such cases where there is no existing Consular jurisdiction, the Supreme Court shall have power to deal with and dispose of the same. Nor* shall the Court take any *ex post facto* or retroactive jurisdiction over crimes or offences committed prior to the organization of the Court.

ARTICLE IV.—*A Declaration respecting Titles to Land in Samoa, and restraining the disposition thereof by Natives; and providing for the investigation of Claims thereto, and for the registration of valid Titles.*

Section 1. In order that the native Samoans may keep their lands for cultivation by themselves, and by their children after them, it is declared that all future alienation of lands in the islands of Samoa to the citizens or subjects of any foreign country, whether by sale, mortgage, or otherwise, shall be prohibited, subject to the following exceptions:—

(*a.*) Town lots and lands within the limits of the Municipal District, as defined in this Act, may be sold or leased by the owner for a just consideration, when approved in writing by the Chief Justice of Samoa.

(*b.*) ~~Agricultural~~ Lands in the islands *outside the Municipality* may be leased for a just consideration, and with carefully-defined boundaries, for a term not exceeding forty (40) years, when such lease is approved in writing by the Chief Executive Authority of Samoa and by the Chief Justice.

But care shall be taken that the agricultural lands and natural fruit lands of Samoans shall not be unduly diminished.

Sec. 2. In order to adjust and settle all claims by aliens of titles to land, or any interest therein in the islands of Samoa, it is declared that a Commission shall be appointed to consist of three (3) impartial and competent persons, one to be named by each of the three Treaty Powers, to be assisted by an officer to be styled "Natives' Advocate," who shall be appointed by the Chief Executive of Samoa with the approval of the Chief Justice of Samoa.

Each Commissioner shall receive during his necessary term of service a compensation at the rate of three hundred dollars per month, and his reasonable fare to and from Samoa. The reasonable and necessary expenses of the Commission for taking

evidence and making surveys (such expenses to be approved by the Chief Justice) shall also be paid, one-third by each of the Treaty Powers.

The compensation of the Natives' Advocate shall be fixed and paid by the Samoan Government.

Each Commissioner shall be governed by the provisions of this Act, and shall make and subscribe an oath before the Chief Justice that he will faithfully and impartially perform his duty as such Commissioner.

Sec. 3. It shall be the duty of this Commission, immediately upon their organization, to give public notice that all claims on the part of any foreigner to any title or interest in lands in Samoa must be presented to them, with due description of such claim and all written evidence thereof, within four months from such notice, for the purpose of examination and registration; and that all claims not so presented will be held invalid, and for ever barred; but the Chief Justice may allow a reasonable extension of time for the production of such evidence when satisfied that the claimant has, after due diligence, been unable to produce the same within the period aforesaid. This Notice shall be published in Samoa, in the German, English, and Samoan languages, as directed by the Commission.

The labours of the Commission shall be closed in two years, and sooner if practicable; *but should it be found impossible to close such labours in the time specified, then the term shall be extended until the merits of all claims unadjudicated upon shall be inquired into and reported upon to the Supreme Court.*

Sec. 4. It shall be the duty of the Commission to investigate all claims of foreigners to land in Samoa, whether acquired from natives or from aliens, and to report to the Court in every case the character and description of the claim, the consideration paid, the kind of title alleged to be conveyed, and all the circumstances affecting its validity.

They shall especially report—

(*a.*) Whether the sale or disposition was made by the rightful owner or native entitled to make it.

(*b.*) Whether it was for a sufficient consideration.

(*c.*) The identification of the property affected by such sale or disposition.

Sec. 5. The Commission, whenever the case requires it, shall endeavour to effect a just and equitable compromise between litigants. They shall also report to the Court whether the alleged title should be recognized and registered or rejected, in whole or in part, as the case may require.

Sec. 6. All disputed claims to land in Samoa shall be reported by the Commission to the Court, together with all the evidence affecting their validity; and the Court shall, *subject to the proviso hereinafter contained,* make final decision thereon in writing, which shall be entered on its record.

~~Undisputed claims, and such~~ *Provided that all valid undisputed claims and also such other claims* as shall be decided valid by the unanimous voice of the Commission, shall be confirmed by the Court in proper form in writing, and be entered of record.

(*a.*) *In all cases where the Commission is not unanimous, its decision shall be subject to the revision and confirmation of the Court.*

Sec. 7. The Court shall make provision for a complete registry of all valid titles to land in the islands of Samoa which are or may be owned by foreigners.

Sec. 8. All lands acquired before the 28th day of August, 1879—being the date of the Anglo-Samoan Treaty—shall be held as validly acquired—but without prejudice to rights of third parties—if purchased from Samoans in good faith, for a valuable consideration, in a regular and customary manner. Any dispute as to the fact or regularity of such sale shall be examined and determined by the Commission, subject to the revision and confirmation of the Court.

Sec. 9. The undisputed possession and continuous cultivation of lands by aliens for ten years or more shall constitute a valid title by prescription to the land so cultivated, and an order for the registration of the title thereto may be made.

Sec. 10. In cases where land acquired in good faith has been improved or cultivated upon a title which is found to be defective, the title may be confirmed in whole or in part upon the payment by the occupant, to the person or persons entitled thereto, of an additional sum, to be ascertained by the Commission, and approved by the Court as equitable and just.

Sec. 11. All claims to land, or to any interest therein, shall be rejected and held invalid in the following cases:—

(*a.*) Claims based upon mere promises to sell, or options to buy.

(*b.*) Where the deed, mortgage, or other conveyance contained, at the time it was signed, no description of the land conveyed sufficiently accurate to enable the Commission to define the boundaries thereof.

(*c.*) Where no consideration is expressed in the conveyance, or, if expressed, has not been paid in full to the grantor, or if the consideration at the time of the conveyance was manifestly inadequate and unreasonable.

(*d.*) Where the conveyance, whether sale, mortgage, or lease, was made upon the consideration of a sale of fire-arms or munitions of war, or upon the consideration of intoxicating liquors, contrary to the Samoan Law of the 25th October, 1880, or contrary to the Municipal Regulations of the 1st January, 1880.

Sec. 12. The Land Commission may, at its discretion, through the Local Government of the district in which the disputed land is situated, appoint a native Commission to determine the native grantor's right of ownership and sale; and the result of that investigation, together with all other facts pertinent to the question of validity of title, shall be laid before the Commission, to be by them reported to the Court.

ARTICLE V.—*A Declaration respecting the Municipal District of Apia, providing a Local Administration therefor, and defining the Jurisdiction of the Municipal Magistrate.*

Section 1. The Municipal District of Apia is defined as follows: beginning at Vailoa, the boundary passes thence westward along the coast to the mouth of the River Fuluasa, thence following the course of the river upwards to the point at which the Alafuala road crosses said river, thence following the line of said road to the point where it reaches the River Vaisinago, and thence in a straight line to the point of beginning at Vailoa, embracing also the waters of the harbour of Apia.

Sec. 2. Within the aforesaid District shall be established a Municipal Council, consisting of six members and a ~~President of the Council~~, *Mayor*, who shall ~~also~~ have a vote *only*.

Each member of the Council *and also the Mayor* shall be a resident of the said District, and owner of real estate, or conductor of a profession or business in said District which is subject to a rate or tax not less in amount than 5 dollars per annum.

For the purpose of the election of members of the Council, the said District shall be divided into two, or three, electoral districts, from each of which an equal number of Councillors shall be elected by the taxpayers thereof qualified as aforesaid, and the members elected from each electoral district shall have resided therein for at least six months prior to their election.

It shall be the duty of the Consular Representatives of the three Treaty Powers to make the said division into electoral districts as soon as practicable after the signing of this Act. In case they fail to agree thereon, the Chief Justice shall define the electoral districts. Subsequent changes in the number of Councillors or the number and location of electoral districts may be provided for by Municipal Ordinance.

The Councillors shall hold their appointments for a term of two years, and until their successors shall be elected and qualified.

(*a.*) *In the case of the seat of any Councillor becoming vacant by death, resignation, or otherwise, before the said term of two years has expired, the person elected in his place shall hold office only for the balance of the said term.*

In the absence of the ~~President~~ *Mayor* the Council may elect a Chairman *pro tempore*.

Consular officers shall not be eligible as Councillors *or Mayor*, nor shall *the Mayor or* Councillors exercise any Consular functions during their term of office.

Sec. 3. The Municipal Council shall have jurisdiction over the Municipal District of Apia so far as necessary to enforce therein the provisions of this Act which are applicable to said District, including the appointment of a Municipal Magistrate, and of the necessary subordinate officers of justice and of administration therein; and to provide for the security in said District of person and property; for the assessment and collection of the revenues therein as herein authorized; and to provide proper fines and penalties for the violation of the Laws and Ordinances which shall be in force in said District and not in conflict with this Act, including

Sanitary and Police Regulations. They shall establish pilot charges, port dues, Quarantine and other Regulations of the port of Apia, and may establish a ~~local~~ postal system. They shall also fix the salar~~yies~~ of the Municipal Magistrate, and establish the fees and charges allowed to other civil officers of the District, excepting ~~Clerk and Marshal~~ *the officers* of the Supreme Court.

All Ordinances, ~~Resolutions~~, and Regulations passed by ~~this~~ *the* Council before becoming law shall be referred to the Consular Representatives of the three Treaty Powers sitting conjointly as a Consular Board, who shall either approve and return such *Ordinances and* Regulations, or suggest such amendments as may be unanimously deemed necessary by them.

Should the Consular Board not be unanimous in approving the *Ordinances and* Regulations referred to them, or should the amendments unanimously suggested by the Consular Board not be accepted by a majority of the Municipal Council, then the *Ordinances and* Regulations in question shall be referred for modification and final approval to the Chief Justice of Samoa.

Sec. 4. The Municipal Magistrate shall have exclusive jurisdiction in the first instance over all persons, irrespective of nationality, in case of infraction of any Law, Ordinance, or Regulation passed by the Municipal Council, in accordance with the provisions of this Act, provided that the penalty does not exceed a fine of 200 dollars, or imprisonment *with or without hard labour* for a longer term than ~~180 days~~ *one year.*

In cases where the penalty imposed by the Municipal Magistrate shall exceed a fine of ~~twenty~~ *fifty* dollars, or a term of ~~ten~~ *twenty-one* days' imprisonment, an appeal may be taken to the Supreme Court.

(*a.*) *In civil cases where the amount claimed or in dispute exceeds 50 dollars, an appeal from the decision of the Municipal Magistrate may be taken to the Supreme Court.*

(*b.*) *Upon such terms as to costs or otherwise as the Magistrate may deem just.*

Sec. 5. ~~The President of the Municipal Council~~ *The Mayor* shall be a man of mature years, and of good reputation for honour, justice, and impartiality. He shall be ~~agreed upon by the three Powers, or, failing such agreement, he shall be selected from the nationality of Sweden, the Netherlands, Switzerland, Mexico, or Brazil, and nominated by the Chief Executive of the nation from which he is selected, and appointed by the Samoan Government upon certificate of such nomination.~~

~~He may act under the joint instruction of the three Powers, but shall receive no separate instruction from either. He shall be guided by the spirit and provisions of this General Act, and shall apply himself to the promotion of the peace, good order, and civilization of Samoa. He may advise the Samoan Government, when occasion requires, and shall give such advice when requested by the King, but always in accordance with the provisions of this Act, and not to the prejudice of the rights of either of the Treaty Powers.~~

~~He shall receive an annual compensation of five thousand dollars ($5,000), to be paid the first year in equal shares by the three Treaty Powers, and afterward out of that portion of Samoan revenues assigned to the use of the Municipality, upon which his salary shall be the first charge.~~

elected by ballot, annually, by the taxpayers of the entire Municipal District, and shall have resided in the Municipal District for not less than two years immediately prior to his election. He shall, before entering upon his functions, make and subscribe before the Chief Justice an oath or affirmation that he will well and faithfully perform the duties of his office.

Each Councillor, upon being elected, and before taking his seat on the Council, shall make and subscribe before the Chief Justice a similar oath or affirmation.

He shall be the receiver and custodian *and Treasurer* of the *Municipal* revenues accruing under the provisions of this Act, and shall render quarterly reports of his receipts and disbursement to the King, and to the Municipal Council, *and in all matters relating to such revenue and the custody thereof and dealing therewith he shall be subject to and act in accordance with the directions and instructions of the Municipal Council.*

He shall superintend the Harbour and Quarantine Regulations, and shall, as the Chief Executive Officer, be in charge of the administration of the Laws and Ordinances applicable to the Municipal District of Apia.

Sec. 6. The Chief Justice shall, immediately after assuming the duties of his office in Samoa, make the proper order or orders for the election and inauguration of the Local Government of the Municipal District, under the provisions of this Act. Each member of the Municipal Council, including the President, shall, before entering upon his functions, make and subscribe before the Chief Justice an oath, or affirmation, that he will well and faithfully perform the duties of his office.

ARTICLE VI.—*A Declaration respecting Taxation and Revenue in Samoa.*

Section 1. The port of Apia shall be the port of entry for all dutiable goods arriving in the Samoan Islands; and all foreign goods, wares, and merchandize landed on the islands shall be there entered for examination; but coal and naval stores which either Government has by Treaty reserved the right to land at any harbour stipulated for that purpose are not dutiable when imported as authorized by such Treaty, and may be there landed as stipulated without such entry or examination.

Sec. 2. To enable the Samoan Government to obtain the necessary revenue for the maintenance of government and good order in the islands, the following duties, taxes, and charges may be levied and collected, without prejudice to the right of the Native Government to levy and collect other taxes in its discretion upon the natives of the islands and their property, and with the consent of the Consuls of the Signatory Powers upon all property outside the Municipal District, provided such tax shall bear uniformly upon the same class of property, whether owned by natives or foreigners:—

(A.)—IMPORT DUTIES.

	Dol. c.
1. On ale and porter and beer, per dozen quarts	0 50
2. On spirits, per gallon	2 50
3. On wine, except sparkling, per gallon	1 00
4. On sparkling wines, per gallon	1 50
5. On tobacco, per lb.	0 50
6. On cigars, per lb.	1 00
7. On sporting arms, each	4 00
8. On gunpowder, per lb.	0 25
Additional—	
8. Opium, per lb.	*20 00*
9. Statistical duty on all merchandize and goods imported, except as aforesaid, *ad valorem*	2 per cent

N.B.—All measures of quantity are understood to be imperial.

(B.)—~~EXPORT DUTIES.~~

~~On copra, ad valorem~~	~~2½ per cent.~~
~~On cotton,~~ ,,	~~1½~~ ,,
~~On coffee,~~ ,,	~~2~~ ,,

(C.)—TAXES TO BE ANNUALLY LEVIED.

	Dol. c.
1. Capitation tax on Samoans and other Pacific Islanders not included under No. 2, ~~per head~~	~~1 00~~
to be imposed on males only between the ages of 14 and 50 years, the amount per head to be fixed by the Samoan Government and the Chief Justice.	
2. Capitation tax on coloured plantation labourers, other than Samoans, per head	2 00
3. On boats, trading and others (excluding native canoes and native boats carrying only the owner's property), each	4 00
4. On fire-arms, each	~~2 00~~ *5 00*
5. On dwelling-houses (not including the dwelling-houses of Samoan natives) and on land and houses used for commercial purposes, *ad valorem*	1 per cent.
6. Special taxes on traders as follows:—	
Class I—	
On stores of which the monthly sales are 2,000 dollars or more, each store	100 00
Class II—	
Below 2,000 dollars and not less than 1,000 dollars	48 00
Class III—	
Below 1,000 dollars and not less than 500 dollars	36 00
Class IV—	
Below 500 dollars and not less than 250 dollars	24 00
Class V—	
Below 250 dollars	12 00

(D.)—Occasional Taxes.

1. On *foreign* trading-vessels exceeding 100 tons burden, calling at Apia, *and doing business there*, at each call.. .. .. .. { ~~10 00~~ / *25 00*

1 (*a.*) *Decked vessels engaged in the coasting trade, 20 tons and under, per annum* *15 00*

1 (*b.*) *Over 20 tons and under 100 tons, per annum* *25 00*

2. *Upon every transfer or purchase of real estate there shall be paid by the transferree or purchaser before the instrument or deed affecting such transfer or completion of such purchase can be registered a tax of ½ per cent. on the value of the consideration paid.*

Where there is no consideration, or when the consideration is nominal or not valuable, such tax shall be computed and payable on the actual value of the property transferred or purchased. Unless and until such tax be paid, the title of the transferree or purchaser shall be held invalid.

~~2. Upon deeds of real estate, to be paid before registration thereof can be made, and without payment of which title shall not be held valid, upon the value of the consideration paid .. ½ per cent.~~

3. Upon other written transfers of property, upon the selling price .. 1 per cent.

Evidence of the payment of the last two taxes may be shown by lawful stamps affixed to the title-paper, or otherwise by the written receipt of the ~~proper tax~~ collector *of customs.*

When the property so transferred or purchased is situated within the Municipality, such last two taxes shall be payable to and receivable by the Apia Municipal Council.

When the property so transferred or purchased is situated outside the Municipality, such last two taxes shall be payable to and receivable by the Samoan Government.

4. Unlicensed butchers in Apia shall pay upon their sales .. .. 1 per cent.

(E.)—Licence Taxes.

No person shall engage as proprietor or manager *of or* in any of the following professions ~~or~~ *trades, occupations, or callings*, except after having obtained a licence therefor, and for such licences the following tax shall be paid *quarterly* in advance :—

	Dol. c.	
Tavern-keeper	10 00	per month.
Attorney, barrister, or solicitor	60 00	per annum.
Doctor of medicine or dentistry	30 00	,,
Auctioneer or commission agent	40 00	,,
Baker	12 00	,,
Banks or companies for banking	60 00	,,
Barber	6 00	,,
Blacksmith	5 00	,,
Boat-builder	6 00	,,
Butcher	12 00	,,
Cargo-boat or lighter	6 00	,,
Carpenter	6 00	,,
Photographer or artist	12 00	,,
Engineer	12 00	,,
,, assistants..	6 00	,,
,, apprentices	3 00	,,
Hawker	1 00	,,
Pilot	24 00	,,
Printing press	12 00	,,
Sail-maker	6 00	,,
Ship-builder	6 00	,,
Shoemaker	6 00	,,
Land surveyor	6 00	,,
Tailor	6 00	,,
Waterman	6 00	,,
Salesmen, bookkeepers, clerks, paid not less than 75 dollars a-month	3 00	,,
Same, when paid over 75 dollars a-month	6 00	,,
White labourers and domestics, per head	5 00	,,
Factory hands and independent workmen	5 00	,,

Addendum to Schedule (E)—

Provided that the Municipal Council may from time to time, with respect to persons residing or carrying on business or practising their callings within the Municipality, make such additions or alterations to the above Schedule and such reductions or increase in the amount of tax to be paid as may seem reasonable and just. And the Samoan Government may make such additions, alterations, reductions, or increase, with respect to persons residing or carrying on business or practising their callings outside the Municipality.

Sec. 3. Of the revenues ~~paid into the Treasury~~ *payable and receivable under the provisions of this Act* the proceeds of the Samoan capitation tax, of the licence taxes paid by native Samoans, and of all other taxes which may be collected without the Municipal District, shall be for the use and paid out upon the order of the Samoan Government. [*Qy.* omitted.—The proceeds of the other taxes, which are collected in the Municipal District exclusively, shall be held for the use and paid out upon the order of the Municipal Council to meet the expenses of the Municipal Administration as provided by this Act.]

Sec. 4. It is understood that "dollars" and "cents," terms of money used in this Act, describe the standard money of the United States of America, or its equivalent in other currencies, *as specified below*:—

£1	..	..	..	..	..	*5 dollars United States' currency.*			
4s.	..	..	..	..	..	*1*	„	„	„
20 mark gold	..	..	..	..	..	*5*	„	„	„

Chilean currency shall no longer be a legal tender in Samoa.

ARTICLE VII.—*A Declaration respecting Arms and Ammunition and Intoxicating Liquors, restraining their Sale and Use.*

Section 1.—*Arms and Ammunition.*

The importation into the islands of Samoa of arms and ammunition by the natives of Samoa, or by the citizens or subjects of any foreign country, shall be prohibited, except in the following cases:—

(*a.*) Guns and ammunition for sporting purposes, for which *a* written licence shall have been previously obtained from the ~~President of the Municipal Council~~ *Mayor.*

All arms and ammunition imported or sold in violation of these provisions shall be forfeited to the Government of Samoa. The Samoan Government retains the right to import suitable arms and ammunition to protect itself and maintain order; but such arms and ammunition shall be entered at the Customs (without payment of duty), and reported by the Mayor of Apia to the Consuls of the three Treaty Powers.

(*b.*) Small arms and ammunition carried by travellers as personal appanage.

The sale of arms and ammunition by any foreigner to any native Samoan subject or other Pacific Islander resident in Samoa is also prohibited.

Any arms or ammunition imported or sold in violation of these provisions shall be forfeited to the Government of Samoa. The Samoan Government retains the right to import suitable arms and ammunition to protect itself and maintain order; but all such arms and ammunition shall be entered at the Customs (without payment of duty), and reported by the President of the Municipal Council to the Consuls of the three Treaty Powers.

The three Governments reserve to themselves the future consideration of the further restrictions which it may be necessary to impose upon the importation and use of fire-arms in Samoa.

Section 2.—*Intoxicating Liquors.*

No spirituous, vinous, or fermented liquors, or intoxicating drinks whatever, shall be sold, given, or offered to any native Samoan or South Sea Islander resident in Samoa, to be taken as a beverage.

Adequate penalties, including imprisonment, *with or without hard labour,* for the violation of the provisions of this Article, shall be established by the Municipal Council for application within its jurisdiction; and by the Samoan Government for all the islands.

ARTICLE VIII.—*General Dispositions.*

Section 1. The provisions of this Act shall continue in force until changed by consent of the three Powers. Upon the request of either Power, after three years from the signature hereof, the Powers shall consider by common accord what

ameliorations, if any, may be introduced into the provisions of this General Act. In the meantime, any special amendment may be adopted by the consent of the three Powers with the adherence of Samoa.

Sec. 2. The present General Act shall be ratified without unnecessary delay, and within the term of ten months from the date of its signature.

In the meantime, the Signatory Powers respectively engage themselves to adopt no measure which may be contrary to the dispositions of the said Act.

Each Power further engages itself to give effect in the meantime to all provisions of this Act which may be within its authority prior to the final ratification.

Ratifications shall be exchanged by the usual diplomatic channels of communication.

The assent of Samoa to this General Act shall be attested by a certificate thereof signed by the King, and executed in triplicate, of which one copy shall be delivered to the Consul of each of the Signatory Powers at Apia for immediate transmission to his Government.

Done in triplicate at Berlin, this 14th day of June, 1889.

(Signed) EDWARD B. MALET.
CHARLES S. SCOTT.
J. A. CROWE.
H. BISMARCK.
HOLSTEIN.
R. KRAUEL.
JOHN A. KASSON.
WM. WALTER PHELPS.
GEO. H. BATES.

No. 188.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received April 4.)

My Lord, *Samoa, March 2, 1892.*

I HAVE the honour to inform your Lordship that late last night Baron Senfft von Pilsach handed to me a copy of a Memoir, which he has forwarded to your Lordship, "relating to the distribution between the Samoan Government and the Municipality of Apia of that portion of the Samoan revenue which is collected in the form of duties," with a request that I would support his proposals.

In the few busy hours remaining before the mail leaves it would be impossible for me to deal with such a question or to adequately consider his proposals.

As it would, I presume, be too late if sent by the next mail, I do not propose to forward any analysis of these proposals.

The most important point is the imminent insolvency of the Samoan Government, which might be averted temporarily by permitting the Samoan Government to borrow one-half of all the import and export duties for three or six months until the matter can be settled.

It should not be forgotten that the Samoans owe between 40,000 and 60,000 dollars or more as taxes to the Government, of which no collection has been attempted, nor is any collection proposed, and that, therefore, practically the whole of the revenue of Samoa is being unfairly collected from the white residents alone.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

No. 189.

Baron Senfft von Pilsach to the Marquis of Salisbury.—(Received April 6.)

(Telegraphic.)

I WITHDRAW my Memoir dated the 29th February. Supreme Court has decided that, under the Berlin Treaty, the customs duties belong to the Government.

No. 190.

*The Marquis of Salisbury to Sir E. Malet.**

Sir, *Foreign Office, April* 6, 1892.

HER Majesty's Government have given their best consideration to the proposals of the United States' and German Governments respecting the enforcement of the authority of the Samoan Supreme Court in the execution of its warrants by the aid of the vessels of war of the three Treaty Powers.

I have now to inform you that Her Majesty's Government are prepared to instruct the Commanders of British ships of war stationed in Samoan waters to afford all practicable assistance for the purpose in question, upon the understanding that action shall be taken only in cases of real emergency, and after an agreement has been arrived at amongst the Consuls of the three Powers, and, further, that a ship of war of the nationality of the offender (if an European subject) is to be employed, should one be present.

It must be remembered that, as the coast of Samoa is indifferently surveyed, any man-of-war which may embark the Chief Justice or his officers should touch only at such places in the island as in the judgment of the Commanding Officer he may consider safe.

Subject to these reservations, Her Majesty's Government will take the necessary steps for giving effect to the arrangement as soon as they shall be in receipt of the draft identical instructions for the three Consuls which are to be concerted between the Cabinets of Berlin and Washington.

I request that you will address a communication to the above effect to the German Government.

I am, &c.
(Signed) SALISBURY.

No. 191.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, April* 8, 1892.

YOUR despatch of the 2nd March has been received, and I am directed by the Marquis of Salisbury to inform you that he approves the note which, in conjunction with your German and United States' colleagues, you addressed to the Chief Justice, requesting him to explain his absence from Samoa during the months of September and October of last year.

I am, &c.
(Signed) T. H. SANDERSON.

No. 192.

Sir J. Pauncefote to the Marquis of Salisbury.—(*Received April* 11.)

My Lord, *Washington, March* 26, 1892.

IN accordance with the instructions contained in your Lordship's despatch of the 8th December last on the subject of the currency question in Samoa, I addressed a note to Mr. Blaine, copy of which I have the honour to inclose, as well as copy of the reply which I have received from Mr. Wharton, Acting Secretary of State.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

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* Also to Sir J. Pauncefote.

Inclosure 1 in No. 192.

Sir J. Pauncefote to Mr. Blaine.

Sir, *Washington, December* 24, 1891.

I HAVE the honour, in obedience to instructions which I have received from the Marquis of Salisbury, to transmit to you copy of an instruction which has been addressed to Her Majesty's Consul at Apia relative to the currency question, together with copies of previous correspondence on the subject.

You will observe that Her Majesty's Consul has been instructed to act with his German colleague in urging the Samoan Government to adopt the arrangements proposed by the Municipal Council of Apia on the 3rd June and the 24th July last, and Lord Salisbury has instructed me to request you, should you see no objection, to issue orders to the United States' Consular Representative at Apia similar to those which have been sent to Her Majesty's Consul.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure 2 in No. 192.

Mr. Wharton to Sir J. Pauncefote.

Sir, *Washington, March* 24, 1892.

I HAVE the honour to acknowledge the receipt of your note of the 24th December last, with its inclosures, relative to the Samoan currency question.

It gives me pleasure to say that a telegram will be sent to Mr. Sewall, Consul-General of the United States at Apia, instructing him to join with his British and German colleagues, whenever they may receive similar instructions, in representing to the authorities of Samoa that the Government of the United States is of opinion that German coin should be admitted into Samoa as well as the coins of the United States and of Great Britain, the 20-mark gold piece to be taken as worth 4 dol. 76 c.

I have, &c.
(Signed) WILLIAM F. WHARTON,
Acting Secretary of State.

No. 193.

Sir E. Malet to the Marquis of Salisbury.—(Received April 11.)

My Lord, *Berlin, April* 8, 1892.

I HAVE the honour to acknowledge receipt of your Lordship's despatch of the 6th instant respecting the support of the authority of the Chief Justice of Samoa by ships of war belonging to the three Treaty Powers, and to inform your Lordship that I have this day addressed a note to Baron von Marschall in the terms of your ordship's above-mentioned depatch.

I have, &c.
(Signed) EDWARD B. MALET.

No. 194.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received April 11.)

(Telegraphic.) *Apia, March* 28, 1892.

THE Chief Justice, I am credibly informed, is of opinion and will decide that the import duties collected here belong to the Samoan Government.

The income of the Municipality would thus be reduced to 1,600*l.* As an annual minimum income of 4,000*l.* or 5,000*l.* is necessary to the Municipality, they would be reduced to bankruptcy.

It is to be hoped that the rights of the white residents and of the Municipality will not be curtailed, in the event of modifications being introduced into the Final Act.

No. 195.

The Marquis of Salisbury to Sir E. Malet.

Sir, *Foreign Office, April* 12, 1892.

I TRANSMIT herewith a paraphrase of a telegram from Her Majesty's Consul at Apia,* representing that the decision of the Chief Justice in regard to the destination of the customs duties levied in the Navigators' Islands will reduce the Municipality to a state of bankruptcy.

He further expresses a hope that, in the event of any modifications being introduced into the Final Act of the Conference on Samoan affairs, the rights of the Municipality and those of the white residents will not be curtailed.

I have to request that your Excellency will explain to the German Government the successive communications which Her Majesty's Government have received upon this subject, and that you will inquire what view they take in the matter.

I am, &c.
(Signed) SALISBURY.

No. 196.

The Marquis of Salisbury to Sir E. Malet.

Sir, *Foreign Office, April* 13, 1892.

THE German Chargé d'Affaires has informed me that his Government have received a letter from King Malietoa, written in the same terms as one which reached me from His Majesty on the 2nd instant, concerning the Land Commission in Samoa and the position of the "Natives' Advocate." Copy of this letter is inclosed herewith for your information.†

Count Metternich stated that as it was impossible at this distance to judge of the grounds for the complaints against the Land Commissioners, the King's letter had been referred to the German Consul at Apia, who had been instructed to report upon the matter.

In reply to Count Metternich's inquiries as to the manner in which Her Majesty's Government intended to meet the King's proposal, I stated that we were also referring the King's letter to the British Land Commissioner, requesting him to furnish any observations which he or his colleagues might have to make upon the points at issue.

I communicated to Count Metternich the substance of the despatch to Mr. Haggard on the subject, of which copy is also inclosed herewith.‡

I am, &c.
(Signed) SALISBURY.

No. 197.

Foreign Office to Mr. B. Haggard.

Sir, *Foreign Office, April* 13, 1892.

I AM directed by the Marquis of Salisbury to forward herewith copy of a letter from King Malietoa,† inclosing an abstract of a communication from the

* No. 194. † No. 180. ‡ No. 197.

"Natives' Advocate," in which exception is taken to certain proceedings of the Land Commissioners.

His Lordship would be glad to receive any observations you may have to make in regard to this statement on behalf of yourself and your colleagues.

I am at the same time to call your attention to the wording of section 2 of Article IV of the Final Act, which provides that the Commission shall be assisted by an officer, to be styled "Natives' Advocate."

Lord Salisbury does not desire to express any conclusive view upon the subject until he shall have had an opportunity of considering your observations upon it; but his Lordship is at present disposed to think that the general intention of the Act was that the "Natives' Advocate" should act as standing Counsel to the natives, and as a sort of Assessor to the Commissioners on questions of the native language, learning, and customs, much in the same way that expert Assessors assist other Tribunals in whose final decisions they have no direct voice.

I am, &c.
(Signed) T. H. SANDERSON.

No. 198.

Foreign Office to Chief Justice Cedercrantz.

Sir, *Foreign Office, April* 13, 1892.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 2nd ultimo, explaining the reasons for your absence from Samoa during the months of September and October last.

I am, &c.
(Signed) T. H. SANDERSON.

No. 199.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received April 18.)

My Lord, *Washington, April* 8, 1892.

IN accordance with the instructions contained in your Lordship's despatch of the 8th ultimo, I addressed a note to Mr. Wharton, the Acting Secretary of State, in which I informed him that the British Land Commissioner at Apia had reported, in a recent despatch to your Lordship, that he and his colleagues had unanimously declined to act upon a suggestion of the Chief Justice that an accurate Map of the whole of the Navigators' Islands should be taken at the expense of the Commission. I added that your Lordship was of opinion that this decision seems amply justified by the terms of section 2, Article IV, of the Samoan Final Act, and had instructed Mr. Haggard that Her Majesty's Government concur in the view aken by the Commissioners.

I have now received a reply from Mr. Blaine stating that the question at issue does not appear to have been reported to the United States' Government by the American Land Commissioner at Apia. The United States' Government, however, is disposed to concur with Her Majesty's Government in regarding the question of preparing the suggested Map as one for the decision of the Land Commissioners, and the American Land Commissioner will therefore be instructed in the above sense.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

No. 200.

The Marquis of Salisbury to Sir E. Malet.

Sir, *Foreign Office, April* 20, 1892.

WITH regard to the currency question in Samoa, I have to state to your Excellency that I have been informed by the German Embassy in London that the United States' Government have not, as was previously supposed, absolutely fixed the rate of exchange for 20 German marks at 4 dol. 76 c., but have merely concurred in the opinion that the 20-mark gold piece should be taken in exchange at that rate.

The United States' Consul at Apia has been instructed in this sense.

I am, &c.
(Signed) SALISBURY.

No. 201.

The Marquis of Salisbury to Sir J. Pauncefote.

Sir, *Foreign Office, April* 23, 1892.

I HAVE been informed by the German Government that they have also received a despatch from the Chief Justice of Samoa similar to that which has reached me, in explanation of his absence from his post, and that they are disposed to take no further action in the matter.

I have to request that you will inform the United States' Government of the above, and will state to them that I have expressed my concurrence in the view taken by the Government of Germany.

I am, &c.
(Signed) SALISBURY.

No. 202.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received April* 28.)

My Lord, *Samoa, March* 30, 1892.

WITH reference to your Lordship's despatch of the 8th December, 1891, instructing me to act with my German colleague in urging the Samoan Government to adopt the suggestions for the settlement of the currency question which were made by the Municipal Council of Apia on the 3rd June and 24th July, 1891, I have now the honour to report that owing to the United States' Government not having sent similar instructions to the American Consul, my German colleague and I have not been able to carry out our instructions hitherto in this matter, beyond communicating them to the Municipal President.

The American Consul has informed us that the views of his Government do not coincide with those expressed on the currency question by the Governments of Her Majesty and of Germany.

The inclosed Resolution was passed by the Municipal Council on the 17th June; and as it is practically identical with the Resolution referred to in your Lordship's instructions of the 8th December, 1891, I was prepared to accept it.

However, my American colleague would not consent, and so we unanimously decided to refer the Resolution to our respective Governments for instructions.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

Inclosure in No. 202.

Extract from the "Samoa Times" of March 19, 1892.

Extract from Report of Proceedings of the Municipal Council of Apia, June 17, 1891.

THE President produced a paper, signed by three members of the Council, asking him to place on the notice paper of to-day a subject relating to the currency, which he had done. The suggestions in the document were that the English sovereign and the 20-mark gold piece be accepted as equal to the 5-dollar United States' gold piece, and that the English silver be accepted at the rate of 1*s.* English to 25 cents United States' currency, and that after the 15th May next Chilean silver be not taken in the Customs at the rate of 1 dollar Chile to 75 cents United States' currency. The President said he approved of the suggestion. It was the same as he suggested to the King to regulate the Samoan Government currency, and if the Consular Board approved of the Resolution, which he had no doubt it would, he would adopt the same as Samoan Government currency.

The Resolution to change the currency in accordance with the suggestion was put to the meeting, and carried unanimously. Mr. Moors did not vote.

No. 203.

Baron Senfft von Pilsach to the Marquis of Salisbury.—(*Received April* 28.)

My Lord, *Apia, March* 30, 1892.

ON the 28th instant I had the honour to forward the following cablegram to the Foreign Offices at London, Berlin, and Washington:—

"I withdraw my Memoir dated the 29th February. Supreme Court has decided that, under the Berlin Treaty, the customs duties belong to the Government. —SENFFT."

I beg leave to inclose copy of that decision, showing that I have been misled through the wording of the respective provisions of the General Act of Berlin. Now it is no more the Government but the Municipal Administration of Apia that an increase of revenue is required for. I suppose that suggestions for such purpose will be submitted to the Governments of the Treaty Powers at an early date.

I have, &c.

(Signed) FRHR. SENFFT VON PILSACH.

Inclosure in No. 203.

IN THE SUPREME COURT OF SAMOA.

In the matter of an application of the President of the Municipal Council of Apia, Freiherr Senfft von Pilsach, for decision:—"As to whether, under the terms of the Berlin General Act, the export and import duties provided therein should be for the use of the Government, or should be held for the use of the Municipal Council of Apia."

On the 28th day of March, 1892.

WITH regard to customs revenues in general, the nature of the case requires them to be used for the expenses of the general administration and government of the country in which they are levied, since that kind of revenue, although in the first hand paid by the importer, ultimately operates as a charge upon the whole national wealth of the country, I am not aware of any instance where the bulk of import and export duties of a country has been apportioned to a local Municipal Administration. Any arrangement to that effect must certainly be so expressed as to leave no doubt as to its intention.

The system of levying and collecting revenue by way of customs has been introduced into this country by the Berlin General Act of the 14th June, 1889. The

stipulations relative to import and export duties now in force in Samoa are contained in Article VI of the said Treaty.

Section 2 of the said Article provides that, to enable the Samoan Government to obtain the necessary revenue for the maintenance of government and good order in the islands, there may be levied certain duties, taxes, and charges which are in the same section arranged under five divisions, viz.:—

(*a.*) Import duties.
(*b.*) Export duties.
(*c.*) Taxes to be annually levied.
(*d.*) Occasional taxes.
(*e.*) Licence taxes.

Section 3 of the same Article provides:—

"Of the revenues paid into the Treasury, the proceeds of the Samoan capitation tax, of the licence taxes paid by native Samoans, and of all other taxes which may be collected without the Municipal District, shall be for the use and paid out upon the order of the Samoan Government. The proceeds of the other taxes, which are collected in the Municipal District exclusively, shall be held for the use and paid out upon the order of the Municipal Council to meet the expenses of the Municipal Administration, as provided by this Act."

I understand that the interpretation hitherto followed, as mentioned in the application, and to test the correctness of which this question is now submitted to me for decision, has arisen from a general opinion that section 3 purports to comprise all kind of revenue, and that, consequently, customs duties as collected within the Municipality—the port of Apia being the port of entry for all dutiable goods arriving in the Samoan Islands—should be held for the use of the Municipal Council of Apia. But it appears to me that neither the intention of the Conference, as expressed in the Protocols, nor the wording of the General Act, supports such an interpretation.

The first draft Budget submitted to the Conference on Samoan affairs held at Washington, 1887, contains an estimate of the different sources of revenue that could be raised for the Government of Samoa by taxation. There is no doubt that that draft Budget has been the basis of the calculations of the Berlin Conference respecting taxation and revenue in Samoa, and therefore inferences of considerable weight may be drawn from the said estimate, with a view to a right understanding of the provisions in question finally adopted.

According to the above-mentioned estimate, showing a total less than 90,000 dollars for the use of the whole kingdom, the taxes corresponding to those enumerated under (*c*), (*d*), and (*e*) of section 2, Article VI, of the Berlin General Act, and which, under section 3, are to be held for the use of the Municipal Council of Apia, were calculated to amount to more than 12,000 dollars, and pilot dues and quarantine dues, as therein estimated, would give an additional sum of above 3,000 dollars. These sums seem to me to afford a fair and reasonable portion for the use of the Municipality of Apia, even taking into consideration the first charge created by section 5, Article V.

The revenues of import and export duties as estimated in the above-mentioned draft exceeded 20,000 dollars, of which amount the *ad valorem* duty, therein kept down to 1 per cent., was calculated to exceed 5,000 dollars.

It cannot be presumed that the Berlin Conference, while leaving Samoa the character of a free-trade country, and limiting the prerogative of the Samoan Government of imposing import and export duties, should have intended the revenues accruing under such duties for the use of the Municipal Administration of Apia. This would be giving the whole advantage of the comparatively small duties allowed to be levied by the Samoan Government upon foreign goods, wares, and merchandize to the administration of a Municipality of foreign residents, which in fact would have been tantamount to subjecting all the outlying districts of Samoa to taxation for the benefit of this Municipality.

It ought at least to be expected that the Plenipotentiaries having at the time determined to continue a certain Municipal Administration for the town and district of Apia, should, in the course of their considerations and discussions of import and export duties, have let fall a word tending to explain that that vast portion of Samoan revenue should be held for the use of the Municipal Administration, if such had been their intention; still there is no trace of such word in the Protocols. This is the more striking, as the *ad valorem* duty was raised to 2 per cent., and suggested to be raised to a still higher figure; surely not for the exclusive benefit of the

Municipality, for the administration of which it must be considered to have been more than amply provided had the customs duties, even with an *ad valorem* duty of only 1 per cent., been available for this purpose, even setting aside all taxes stipulated in (*c*), (*d*), and (*e*) of section 2.

For a right interpretation of section 3, Article VI, it should be borne in mind that the Municipal Administration of the district of Apia is an exception to the autonomy of the Samoan Government, and that, consequently, all powers and rights conferred upon the said Municipality must be interpreted *strictissime*. Now it appears that, whereas in section 2 there are mentioned duties, taxes, and charges, section 3 simply speaks of "taxes." Thus, although the word "taxes" may cover duties, still with such interpretation we are confronted with the difficulty of the arrangement in section 2, where duties and taxes are kept apart and inserted under separate divisions.

Inasmuch as such interpretation would apportion the customs duties to the Municipal Administration, it would imply an extensive construction in favour of an exception, which is in contravention of the rules of interpretation of laws. The word "taxes" in section 3 can, consequently, not comprise those under (*a*) and (*b*) in section 2, enumerated import and export duties.

By reason of what I have stated, and whereas the nature of the case, the intention of the legislator, and the wording of the Treaty provisions subjected to an exact interpretation, fail to support the interpretation hitherto prevailing as mentioned in the application, I hereby declare that under the Berlin General Act the revenues of the import duties and export duties provided for by section 2, Article VI, of the Act, shall be for the use of the Samoan Government.

Given, Mulinuu, day and year as first above written.

(Signed) C. CEDERCRANTZ.
(L.S.)

No. 204.

Mr. B. Haggard to the Marquis of Salisbury.—(*Received April* 30.)

My Lord, *Apia, Samoa, March* 30, 1892.

I HAVE the honour to inform you that the new Imperial German Land Commissioner has not yet arrived. My American colleague and myself have, however, been daily at work at the Commission, inspecting claims, examining titles, perusing documents of title, grouping cases, arranging for surveys when we considered them requisite, and generally forwarding the work. As a matter of fact, considering that we have some 15,000 original deeds and documents of title in our safes, this opportunity of making ourselves acquainted with them, and the localities to which they belong, with a view to hearing them as much as possible in groups, and publishing our lists of cases having regard to that, has been no ill-spent time, though, of course, we have heard no contested case, and our Reports upon uncontested cases await the arrival and approval of our German colleague. I trust and expect he will be here now in a month's time.

I have, &c.
(Signed) BAZETT M. HAGGARD.

No. 205.

Mr. Trench to the Marquis of Salisbury.—(*Received May* 2.)

My Lord, *Berlin, April* 28, 1892.

WITH reference to your Lordship's despatch of the 12th instant, I have the honour to state that I have this day received a note from Baron von Marschall, in which his Excellency informs me that the Imperial Government have as yet received no Report from their Representative at Apia respecting the decision of the Chief Justice of Samoa with regard to the destination of the customs duties levied in the Navigators' Islands.

The Imperial Government, therefore, reserve their opinion upon this decision until a Report has been received.

I have, &c.
(Signed) P. LE POER TRENCH.

No. 206.

Count Metternich to the Marquis of Salisbury.—(Received May 3.)

(Translation.)

My Lord, *German Embassy, London, May 2, 1892.*

IN accordance with my instructions, I have the honour to inform your Lordship that the German Representative on the Land Commission in Samoa, Herr Eggert, has been obliged to leave Apia on account of illness, and that Herr Grenier, Chancellor of the Imperial Consulate-General at Sydney, has been instructed to take over provisionally the duties of the German member of the Land Commission. This gentleman started for his journey from Sydney to Apia on the 21st ultimo.

I have, &c.
(Signed) P. METTERNICH.

No. 207.

The Marquis of Salisbury to Count Metternich.

M. le Chargé d'Affaires, *Foreign Office, May 6, 1892.*

I HAVE carefully considered, in consultation with the Law Advisers of the Crown, the verbal communication which Count Hatzfeldt made to me on the 31st March last,* proposing that the three Treaty Powers should affirm by a Joint Declaration that a recent decision of the Samoan Land Commission upon the construction of section 8 of Article IV of the Samoan Act shall be ultimate and final.

I have to observe, in reply, that while Her Majesty's Government are desirous in every way to accelerate the labours of the Commission, the course proposed appears to them to be open to serious objections.

According to the provisions of the Final Act, recourse may be had from a decision of this nature to the Chief Justice of Samoa. A public Declaration by the Treaty Powers to the effect contemplated would, in fact, be a modification of the terms of the Final Act, and a limitation of the rights of parties under it. Such a document, in order to have validity and binding force, should be invested with the same formalities as the Act itself, and its issue might produce an unfortunate impression upon public opinion, both native and European, in the islands.

If the decision of the Commissioners is correct, it must be assumed that that decision will be duly confirmed upon revision by the Chief Justice, whilst if, on the other hand, it is a mistaken one, Her Majesty's Government are advised that it should be set right by the Tribunal established for that purpose by the terms of the instrument which created the Commission, and on the faith of which the natives and others are acting in respect of their claims.

As regards the delays which have occurred in the settlement of the question of land titles, it seems evident, in view of the small number of claims already received, and of the very large number still outstanding, that the Commission cannot finish its work within the term of two years originally fixed.

But I have reason to believe that the Commissioners are working in perfect harmony, and that both on public grounds and from considerations of private convenience, they will make every effort to bring the investigation to as rapid a conclusion as the circumstances will permit.

I have, &c.
(Signed) SALISBURY.

No. 208.

The Marquis of Salisbury to Mr. Trench.

Sir, *Foreign Office, May 7, 1892.*

THE following verbal communication was made to me by Count Hatzfeldt on the 31st March:—

It appeared from reports received in Berlin from Apia that, when dealing with a question of disputed title, the Samoan Land Commission had recently unanimously adopted a preliminary decision in regard to the construction of section 8, Article IV, of

* No. 208.

the General Act of the Samoan Conference held at Berlin. This decision was to the effect that acquisitions of land anterior to the Anglo-Samoan Treaty could not be contested by a denial of the right of the Samoan vendor to dispose of the land.

The section referred to runs as follows:—

"All lands acquired before the 28th day of August, 1879, being the date of the Anglo-Samoan Treaty, shall be held as validly acquired, but without prejudice to rights of third parties, if purchased from Samoans in good faith, for a valuable consideration, in a regular and customary manner. Any dispute as to the fact or regularity of such sale shall be examined and determined by the Commission, subject to the revision and confirmation of the Court."

The parenthetical condition, "without prejudice to rights of third parties," had been appealed to by the Natives' Advocate as requiring an examination of the question whether the Samoan vendor was at the time the legitimate proprietor of the estate sold, and as implying that the sale must be considered invalid in case there had existed rights over the property on the part of some other Samoan who had not been a party to the sale by the said vendor.

The decision of the Commissioners was to the effect that the term "rights of third parties" was not to be construed as including any such rights which a native of Samoa may claim to have acquired before the 28th August, 1879, and that the words, "in a regular and customary manner," do not require proof of title to dispose of the land on the part of the Samoan vendor.

This decision appeared to the German Government to be of much importance for the consolidation of foreign property in Samoa, and to be calculated to contribute essentially to the promotion of the labours of the Land Commission. It was, however, to be feared that, as its effect would be to remove much material for litigation, the Natives' Advocate and other Advocates in Apia would leave nothing untried to contest it before the Supreme Court, and to win the Chief Justice to their view.

As the German Government concurred with the British and United States' Governments in the wish to forward the labours of the Land Commission and to remove obstructions—a tendency which had been shown in the instructions recently issued to the Representatives at Apia—it seemed to them desirable to affirm by a Declaration, to be agreed upon between the Treaty Powers, that the decision of the Land Commissioners with regard to section 8, Article IV, of the Samoan Act, as before explained, is to be accepted as final.

They accordingly proposed that a Declaration in this sense should be agreed upon and communicated to the authorities at Apia.

I have addressed a note to Count Metternich, of which copy is inclosed,* explaining the grounds on which Her Majesty's Government think that such a proceeding would be unadvisable.

I am, &c.
(Signed) SALISBURY.

No. 209.

Foreign Office to Mr. B. Haggard.

Sir, *Foreign Office, May* 14, 1892.

I AM directed by the Marquis of Salisbury to transmit to you herewith, for your information and guidance, copies of correspondence, as marked in the margin,† respecting a proposal made by the German Government in connection with a recent decision of the Land Commission as to the interpretation of section 8 of the Samoan Act.

I am, &c.
(Signed) P. CURRIE.

No. 210.

The Marquis of Salisbury to Count Metternich.

M. le Chargé d'Affaires, *Foreign Office, May* 16, 1892.

HER Majesty's Government have had under their consideration, in consultation with the Law Officers of the Crown, the verbal communication which you made to me

* No. 207.

† Nos. 207 and 208.

on the 12th ultimo relative to the interpretation of those provisions of the Final Act of the Berlin Conference on the affairs of Samoa which affect the rights and duties of the Chief Justice and the Land Commissioners respectively.

A difference of opinion has arisen between the Chief Justice and the Commissioners on certain points which are explained in the Joint Memorandum of the latter officers, dated the 23rd February last.

The Land Commissioners hold themselves entitled, under section 6, Article IV, of the Final Act, to decide finally upon all claims, whether disputed or undisputed, which may be declared valid by the unanimous voice of the Commission, aad they consider that their decisions in such cases are to be referred to the Supreme Court merely for confimation and for purposes of record.

The Chief Justice, on the other hand, maintains that the final decision upon all contested claims is vested in himself, and that, to use his own words, "the Land Commission is an Investigating Commission, and not a Court."

He further claims the right, under section 4, Article III, of the Final Act, to control and modify the procedure of the Land Commissioners, and he has sought to enforce his views by the issue of two public Proclamations to the above effect.

The Land Commissioners have, however, declined to accept the ruling of the Chief Justice upon these points, pending a reference to their respective Governments.

You stated that the German Government are of opinion that the Chief Justice is technically correct in holding that the final decision upon all contested claims rests with the Supreme Court, and that the Land Commission should not be considered as a Court of Justice, but rather as a Court of Inquiry. Having regard, however, to the fact that the practice hitherto followed by the Commission and the Court has not been in accordance with the view now expressed by the Chief Justice, they propose, in order to prevent delay and expense, that the principle, if recognized by the Powers, should only apply to future cases, and should not have a retroactive effect.

On the other hand, the German Government are not prepared to admit that the Chief Justice possesses the right which he claims of regulating the proceedings of the Land Commissioners, though they are ready to waive their views upon this point if the other Powers concerned should be of a different opinion.

You have requested to be informed of the views of Her Majesty's Government upon the questions at issue.

The first question depends upon the construction of section 6 of the IVth Article of the Final Act of the 14th June, 1889. The section is not so worded as to make its interpretation entirely free from doubt; but looking to the provisions of the earlier sections of the same Article, to the duties to be performed, and the Report to be made by the Commissioners, Her Majesty's Government are of opinion that the final decision upon all disputed claims was intended to rest with the Court, and that in this respect the view taken by the Chief Justice is correct.

Her Majesty's Government think that the meaning of the second paragraph of section 6, though not very clearly expressed, is that in the case of undisputed claims which are decided to be valid by the unanimous voice of the Commission, the duties of the Court are purely ministerial, but that in all cases of disputed claims, or of claims as to which—though there be no rival claimant or opposing litigant—the decision of the Commissioners is not unanimous, the Court has power to decide as to the claim.

Upon the second question, Her Majesty's Government agree with your Government, that the contention of the Chief Justice is not well founded, and that he has no right to control and direct the actual procedure of the Commissioners, except upon the question of the extension of time for the presentation of claims, referred to in section 3 of Article IV.

Pending a further communication from your Government, I do not propose to return any reply either to the communication received from the Chief Justice or to that from the British Land Commissioner on this matter.

I have, &c.
(Signed) SALISBURY.

No. 211.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received May 23.)

My Lord, *Washington, May 12, 1892.*

ON the receipt of your Lordship's despatch of the 23rd ultimo, I addressed a note to Mr. Blaine, informing him that in view of the explanation furnished by the Chief Justice of Samoa to Her Majesty's Government and that of Germany, of the reasons for his absenting himself without leave, the German Government had informed your Lordship that they were disposed to take no further action in the matter, and that Her Majesty's Government had expressed their concurrence in that view.

I have now the honour to inform your Lordship that I have received a note in reply from Mr. Blaine, stating that M. Cedercrantz' explanation has likewise been received by the United States' Government, and that while his absence from his post without previous notification and permission is regretted, they are not disposed to take any further action in regard thereto.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

No. 212.

Baron Senfft von Pilsach to the Marquis of Salisbury.—(Received May 26.)

My Lord, *Apia, April 22, 1892.*

I HAVE the honour to acknowledge the receipt of your note dated the 8th December, 1891, respecting my resignation of the post of President of the Apia Municipal Council.

With reference thereto I beg to acquaint your Lordship, most respectfully, that the German Government have not communicated to me any agreement of the three Powers, but only stated that they themselves declined to approve of my resignation. As regards the United States of America, all I know of their decision is what I may conclude from the fact that your Lordship had kindly expressed the opinion that the German Government would have informed me of the Powers being not prepared to accept my resignation.

Considering the clause of the Berlin General Act, Article V, prescribing that the holder of my office shall not receive other than joint instructions from the three Powers, it might be questioned whether or not, through the two notes above mentioned, the case of my resignation has been settled, even formally. Materially, I hardly need to point out the considerable difference as to the effect of such joint instruction, manifesting the common confidence in me of the three Powers, and of the divergent attitude observed by them with respect to my identical request. Thus, in fact, I had no answer in my hands which I could use officially in order to secure a public satisfaction corresponding with the public damage having been done to my position. On the contrary, all that became known of the negotiations between the Governments concerned, and their way of dealing with my request, supported those comments on the case, which were as much offending to the German Government as prejudicial to my work, saying that Germany was anxious to maintain me in my position because I decidedly favoured the German interests. Concerning the facts upon which, beyond the personal side of the matter, I based my resignation in October last, I regret to say that nothing has occurred since then that could have altered my opinion as to the chances of a successful performance of my official duties.

Therefore, I have the honour to submit again the request to your Lordship for your kind approval of my resignation.

If I am allowed to express an opinion as to the appointment of my successor, I beg leave to recommend to your Lordship Dr. Filip Hagberg, the present Clerk of the Supreme Court, and Secretary to the Chief Justice of Samoa, as a very suitable person for the office in question. For the purpose of preventing any possible misunderstanding of this suggestion, I am to state, at first, that M. Cedercrantz is in no way connected with it, and that in submitting the same to you I am guided by no other reason than the wish to manage my resignation with as little difficulty as possible.

Dr. Hagberg is a Swedish subject of mature years, of an unimpeachable reputation for honour, justice, and impartiality, and of an independent and energetic character. As a result of his actual position and of his individual capacity he possesses a perfect

understanding of the Final Act of the Berlin Conference; also, living at Apia since fifteen months he is fully acquainted with the local requirements of the place of Apia, as well as with the situation of the Samoan Government. His appointment would, therefore, secure quite an uninterrupted administration of my office. Finally, the personal relations between Dr. Hagberg and the Chief Justice, M. Cedercrantz, constitute a valuable guarantee that also in future conflicts between the Chief Justice and the President would be avoided. I hardly need say that frictions between those officials would be more prejudicial to the working of the Berlin Treaty than any other frictions, which, as it seems, will never disappear at Apia.

I have, &c.

(Signed) FRHR. SENFFT VON PILSACH.

No. 213.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received May* 26.)

My Lord, *Samoa, April* 26, 1892.

I HAVE the honour to report that on the 26th March Baron Senfft von Pilsach called on me and stated that he was informing the Treaty Powers by cablegrams that the Chief Justice had decided that the customs duties belonged to the Samoan Government instead of, as hitherto, the Municipality of Apia.

The President said the decision would destroy the power of the Municipal Council, which had attained a position of influence never contemplated by the Berlin Treaty.

In the course of a friendly conversation I pointed out to the President that the decision of the Chief Justice as proposed, if made, would reduce the Municipality to a hopeless state of bankruptcy.

The decision, a printed copy of which is inclosed, was made at the suggestion and on the application of Baron Senfft von Pilsach in his capacity of Adviser to the King, and the Chief Justice gave the decision privately without any judicial proceedings, as provided in Article III, section 5, of the Berlin Treaty, and without informing the Municipal Council, or giving them any opportunity of stating their view.

The President further stated that the Samoan Government might in future maintain the police and other necessary officials in the Municipality, and undertake any necessary public works; but I showed him that, saving its territorial rights, the Samoan Government had no power to interfere in the administration of the Municipality. I also feared that, if the decision of the Chief Justice was publicly announced before a satisfactory readjustment of the revenues had been approved by the Powers, it would create an uproar in the Municipality, and I urged that no hurried step be taken. The President also said that he had, by cablegram, withdrawn his "Memoir" on the finances of Samoa. I requested the President to inform me officially, in writing, of the decision of the Chief Justice, but received no copy of the decision, or any further information, until the 6th April, five days after the decision had been announced by the President to the Municipal Council, and six days after the mail had left for England.

I had, however, by cablegram, briefly announced to your Lordship the substance of the interview herein detailed.

The decision of the Chief Justice was known in Apia on the 30th March, and aroused a storm of indignation, and it required all the personal influence of the Consuls to prevent open violence.

On the 1st April the decision was announced by the President to the Municipal Council.

During my absence from Apia that afternoon a public indignation meeting, summoned by the six Municipal Councillors, of whom three are German, was held, to which the Consuls were hurriedly invited. My German colleague had authorized our American colleague, Mr. Blacklock, to attend the meeting, and suggest a meeting between the Municipal Councillors and the Consuls to try and calm matters down. Such a meeting was accordingly held the same evening at the German Consulate, when the German Consul presided, and made a temperate statement to the six Municipal Councillors, who firmly protested against any withdrawal of money already treated and collected as municipal revenue. The German Consul said it was "the duty of the Consular Representatives to find a practical way out of the trouble until the clear decision of the Powers could be made known." The Consuls were requested to have an interview with the President next morning. This we did, the German Consul being our spokesman. After a protracted meeting, during which the President questioned

the right of the Treaty Powers to review any interpretation of the Berlin Treaty made by the Chief Justice, the German Consul, who was fearful that a public outbreak would affect the trade and prospects of the German plantations, induced the President to consent to our view that, although we would not, and did not, seek to disregard the decision of the Chief Justice, yet the result of that decision was to produce an unfortunate and absolute deadlock which must be remedied by the Treaty Powers.

I inclose an extract from the Minutes of the Municipal Council of Apia giving the President's subsequent statement to this effect.

The Consuls embodied in a joint note the result of their interview with the Municipal Council (copy appended), on receipt of which public confidence was gradually restored, and the situation improved.

At the next meeting of the Municipal Council, the President in the chair, the two lawyers in Apia were unanimously appointed to draw up a statement of the case for the Municipality, and I have the honour to inclose a copy of the said statement to your Lordship at the request of the Municipal Council.

The revenue provided by the Berlin Treaty for the Samoan Government in the shape of a capitation tax and other taxes and licences would be ample for all its requirements, but the Government has neglected to collect the revenue so provided. No attempt having been made since the first and only capitation tax collected, at least 60,000 dollars (12,000*l.*) should have and could have been so collected in addition to the only collection made. The collection now would be more difficult, and it would be easier to put a special import duty on those articles exclusively imported for the natives, and abolish the unpopular capitation tax, or at least exempt children from the tax. The present import duties, which are entirely contributed by the white residents, should continue to form part of the municipal revenue, while the new duties of even 10 or 12½ per cent. on those goods specially imported for sale to natives should be collected by the Municipality for the Samoan Government. In this way all difficulty in collection from the natives would be avoided or greatly lessened, while an increased revenue would be provided for the Samoan Government without diminishing the municipal revenue.

The present revenue of the Municipal Council is barely sufficient, but, deducting the customs, only 1,600*l.* remains, which, after paying the President, leaves 600*l.* per annum to defray offices, police, pilot, surveyor, clerks, lamps and street lighting, postal subsidy, printing, the Magistrate, his Court, harbour lights, buoys, roads, wharves, revenue collector, and the maintenance of hospital, prison, quarantine, health, and sanitary regulations, &c. The minimum necessary income at present for the Municipality is 20,000 to 25,000 dollars, or 5,000*l.* per annum.

The working of the Municipality, though not perfect, has been the bright spot in the working of the Berlin Treaty, and by any one who knows the rapid progress Apia has made since the Berlin Treaty came into operation, this attempt to stifle its growth can only be regarded as destructive of the growing trade of Samoa. The imports and exports in 1891 were nearly double those of 1890.

In the interests of the British subjects in the Municipality, who number about double the total number of the subjects of all the other nations put together, I hope that in any readjustment of the revenues of Samoa the necessary revenue may be secured to the Municipality, which is becoming more and more of an English town, English being the language universally adopted, and that the rights and privileges of local self-government secured by the Berlin Treaty to the white residents of Apia may not be curtailed.

The situation is perfectly quiet now pending the decision of the Powers, and the Consuls have been in perfect amity all through with the President, though compelled in the interests of the white residents to take a different but unanimous view of the situation.

I trust your Lordship will consider that I have acted solely from the desire to smooth over a threatening situation, and to prevent a serious alteration being made to the detriment of British subjects without the sanction of Her Majesty's Government.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

Inclosure 1 in No. 213.

Newspaper Extract.

To the President of the Municipal Council of Apia:

Sir, *Mulinuu, March* 25, 1892.

FROM the Financial Reports you have rendered to me on the 8th September, 1891, and on the 27th February, 1892, I have learnt that since the 15th May, 1890, up to the 31st December, 1891, part of the revenues paid into the Treasury which is constituted by the proceeds accruing from the collection of import and export duties has been held for the use of the Municipal Council of Apia. According to your statements the sum of these proceeds amounts for the whole of the aforesaid period to 25,000 dol. 41 c. I do not find this practice to be in accordance with the respective provisions of the Berlin Treaty. There it is clearly said that the duties, taxes, and charges shall be levied and collected in order to enable my Government to obtain the necessary revenue for the maintenance of government and good order in the islands. Only from the taxes and from the charges a part has been exempt and appropriated for the use of the Municipal Administration of Apia. You have explained to me verbally that in holding the aforesaid amount for the use of the Municipal Council of Apia you proceeded only on those lines which, as you understood, had been adopted before your arrival by the Provisional Financial Administration existing at that time, and that in fact you were of the opinion that the Berlin Treaty had apportioned the revenue accruing from the export and import duties to the Municipality of Apia. You inform me that this opinion was never disputed in your presence from any part; but thereupon I observe that it was your duty to investigate and penetrate this question independently of any request or objection. For under the Berlin Treaty you alone are in charge of holding the proper amount of money for the use of my Government on one side, and for the use of the Municipal Administration on the other side. Now I request you to place the above-mentioned amount of 25,000 dol. 41 c., and also the total of those duties having been collected since the beginning of this year, to the credit of the Samoan Government. As I understand that the Treasury does not contain the sum of these amounts, I declare myself willing to entertain any proposal you will lay before me for the purpose of meeting the current requirements of the Municipal Administration of the Apia District.

Further, you are authorized hereby to take all necessary steps in order to secure the collection of customs for my Government in conformity with this communication.

I am, &c.

(Signed) MALIETOA,
King of Samoa.

To the Supreme Court of Samoa: *Mulinuu, March* 25, 1892.

I have the honour to inclose herewith copy of a letter which His Majesty the King has written to me respecting the collection of duties under the terms of the Final Act of the Berlin Conference on Samoan affairs. The letter says that those duties ought to be collected by and for the Government, while hitherto they were collected on behalf and held for the use of the Municipal Council of Apia. I have advised His Majesty to write that letter, and thus share the opinion expressed therein. Still I believe that there exists some ambiguity in the wording of section 3, Article VI, of the Berlin General Act, which has misled me heretofore in the arrangements concerning the duties. Hence I regard myself not being called upon to explain this ambiguity, and I hesitate the more to do so as the particular combination in my office of functions to be performed for the Government, and of others referring to the Administration of the Municipality of Apia, renders me in regard to the subject of King Malietoa's letter the representative of two parties, although in fact the connection between their interests is as close as that existing between the services I must render to both of them.

On these grounds, and furthermore, with a view to the importance of the subject in regard to the development of the country, I should prefer to obtain your decision in the matter, which, as the Berlin Treaty says, shall be conclusive upon all residents of Samoa. Therefore I beg leave to request most respectfully your decision as to whether, under the terms of the Berlin General Act, the export and import duties provided therein should be for the use of the Government, or should be held for the use of the Municipal Council of Apia.

(Signed) FRHR. SENFFT VON PILSACH.

[Decision of Chief Justice as to Customs Duties: See Inclosure in No. 203.]

The President of the Municipal Council of Apia:

Sir, *Mulinuu, March* 31, 1892.

With reference to my letter dated the 25th March, I authorize you hereby to hold an amount of 3,000 dollars United States' currency for the use of the Municipal Council of Apia. Until later arrangements that amount is to be kept in your books as a loan given this day by my Government to the Municipal Council of Apia, without interest being stipulated.

I am, &c.
(Signed) MALIETOA.

Inclosure 2 in No. 213.

Extract from the Minutes of the Municipal Council of Apia, Wednesday, April 6, 1892.

THE President stated that under section 4, Article III, of the Berlin General Act, the decision of the Supreme Court concerning the customs duties was final; but it only stated what had been prescribed through the respective provisions of the Berlin Treaty. These the Signatory Powers could alter at any time by common accord. Such alteration was now required as the revenue of the Municipality—the customs duties being deducted—proved to be insufficient. Furthermore, it was also left to the Treaty Powers to take into consideration the manner in which the financial provisions of the Treaty had been carried out heretofore, and to bring about an arrangement which, with the assent of the Samoan Government, could even refer to the past time. This being the situation, the President felt bound to avoid all unnecessary expenses in the meantime in order to prevent subsequent difficulties. At present he was authorized to hold an amount of 9,000 dollars United States' coin, altogether, for the use of the Municipal Council.

M. Grevsmühl remarked the revenue of the Municipality without the proceeds of the duties would hardly meet the expense of the President's salary; therefore he failed to see how the framers of the Berlin Treaty could have intended to apportion the duties to the Government.

The President replied that the Berlin Conference had used an estimate of the public revenues prepared at the Washington Conference, and that according to this estimate the revenues of the Apia Municipality would amount to a total of about 15,000 dollars United States' coin without any duties.

Besides, if M. Grevsmühl reckoned the actual revenue of the Municipality without customs duties as being under 5,000 dollars, that estimate was too low. The correct figure was about 8,500 dollars.

Mr. Moors said the decision of the Supreme Court was inconsistent with former decisions of the Chief Justice.

Mr. Meredith asked the President how it could happen that he acted such a long time under the opposite opinion to that adopted by him at present.

The President admitted that he was liable to the reproach of having been mistaken. Still he thought that instead of discussing facts that had passed, or principles upon which the Council and the President did not agree, it was preferable to restrict the deliberation on the real requirements of the Administration in its present condition.

Proposed by Mr. Moors, seconded by Mr. Edwards, to resolve as follows, viz.:—"The Municipal Council herewith protests against any change in the Administration as carried on since May 1891 up to the 28th March, 1892.

Carried by 4 against 1 votes, the President and Mr. Haidlen abstaining from voting.

Inclosure 3 in No. 213.

Newspaper Extract.

ON Saturday morning the Consuls waited on Baron Senfft von Pilsach at his residence at Mulinuu, and after a long interview the following letter was received by the Council, and was publicly read at the Municipal Chambers:—

"To the Members of the Municipal Council of Apia:

"Gentlemen, "*Apia, April* 2, 1892.

"We have the honour to inform you that, in pursuance of the request of the meeting of the Municipal Council of the Imperial German Consulate last evening, we have this morning had an interview with Baron Senfft von Pilsach, the President.

"It is his intention to meet you at an early date, when he will lay his further proposals before you. Previous to this meeting no change will take place. The President further assured us that no expenditure beyond the present current requirements would be incurred, and that nothing would be done which might be prejudicial to the possible decision of the Treaty Powers.

"We have, &c.

(Signed) "T. B. CUSACK-SMITH,
Her Britannic Majesty's Consul.
"BIERMANN,
His Imperial German Majesty's Consul.
"W. BLACKLOCK,
United States' Vice-Consul."

Inclosure 4 in No. 213.

Messrs. Carruthers and Cooper to the Consular Representatives of Germany, England, and the United States of America at Samoa.

Gentlemen, *Apia, April* 27, 1892.

AT a meeting of the Apia Municipal Council held on Wednesday, the 6th April, a Resolution was carried appointing Messrs. Carruthers and Cooper to prepare a case on behalf of the Municipal Council to the Representatives of the Treaty Powers for the purpose of presenting a proper statement of the present position of the Apia Municipality with respect to the Samoan Government and its officials, and also with regard to the circumstances which have led up to the present situation.

This Resolution having been duly approved and confirmed by yourselves sitting as a Consular Board, we have, in accordance with the instructions contained in the Resolution referred to, prepared the subjoined statement, and beg respectfully to request, on behalf of the Apia Municipal Council, that you will forward the same to your respective Governments for their consideration.

The Municipal Council was, from the time of its inauguration up to the 1st April of this year, a solvent and vigorous Corporation strenuously striving to bring about the improvement of the Municipal District. It had effected large improvements, especially in the construction of roads and bridges; the good order of the community which it governed had been secured by proper laws; the taxes were readily paid, for the foreign residents felt assured that the funds were being used for the benefit of the community; further improvements, much needed, were planned or discussed. The Council looked hopefully forward, believing that the funds at its disposal would, if economically dealt with, constitute a sufficient provision for the future requirements of the Municipality.

The promising outlook of the administration of the municipal affairs by the Council gave good grounds for the anticipation that the expectations of the framers of "the Berlin Act" would be realized.

By the sudden and arbitrary diverson of the revenue derived from the customs duties from the assets of the Municipal Council to the assets of the General Government of Samoa, the Municipal Council has been transformed into a bankrupt and impotent Corporation, disheartened and disabled from carrying out the purposes for which it was created.

The striking contrast above presented is the result of the sudden and unexpected seizure and appropriation by Baron Senfft von Pilsach, President of the Apia Municipal Council on behalf of the Samoan Government, of the whole of the customs revenue collected since the 15th day of May, 1890, and the transfer of the Customs Department from the control of the Municipal Council to that of the Government.

We will not attempt to reproduce the strong and general feeling of indignation which prevailed throughout the community when it was ascertained that the rights of the Municipality had been thus suddenly invaded, nor refer to it further than to remark that the wise and temperate interposition of the Consular Representatives of the Treaty Powers whereby a *modus vivendi* was effected until the decision of the Treaty Powers could be obtained upon the matter in dispute, prevented any public exhibition of resistance.

The collection of revenue under the provisions of the Final Act of the Berlin Conference on Samoan affairs was commenced under the supervision of the Consular Board on the 15th May, 1890, in accordance with instructions received by the Consular Representatives of the Treaty Powers from their respective Governments.

"Regulations concerning the provisional collection of customs and taxes" were framed by the Board, assented to by the King on behalf of the Samoan Government, and duly published (see "Samoa Times," 17th May, 1890). These Regulations provided for the collection of the Samoan revenue accruing under Article VI of the Berlin General Act, with the exception, however, of the Samoan capitation tax. Under these Regulations a Collector of Customs and Taxes (Mr. Otto Martin) was duly appointed and intrusted with the duties pertaining to that office pending the complete organization of the General and Municipal Governments by the officials who were to be nominated for those duties by the Treaty Powers.

Under the administration of the Consular Board the revenues were collected, but no division or apportionment appears to have been made as between the Government and the Municipality, the Consular Board practically acting as custodians and trustees of the moneys collected, expending only such sums as were requisite for urgent needs and working expenses.

Chief Justice Cedercrantz arrived in Samoa on the 31st December, 1890, while this system was still in vogue, and on the 30th January, 1891, the election of the Municipal Council was proceeded with, and conducted under his personal supervision. The President of the Municipal Council had, however, not then arrived in Samoa, and therefore the Council could not as yet exercise powers conferred upon it by the Berlin General Act by taking charge of the Municipal Administration. The Councillors, however, contented themselves, in the interim between their election and the arrival of the President, with following on the lines adopted by the Consular Board, the latter still retaining the revenues in trust until the arrival of the President, the Custodian and Treasurer provided by the Berlin General Act.

In the meantime, the question as to whether the customs duties ought, under section 3, Article VI, of the Berlin General Act, to be apportioned for the use of the Samoan Government or the Municipality, had arisen and been fully discussed by the Consular Board and the Chief Justice, and the latter, coinciding with the view entertained by the majority of the Consular Board, then decided, though not in writing, that the customs duties formed portion of the municipal revenue. This decision of the Chief Justice is referred to by Mr. H. M. Sewall, United States' Consul-General, in a despatch to his Government, and was generally and publicly known at the time.

On the 26th April, 1891, Baron Senfft von Pilsach, President of the Municipal Council, arrived in Samoa, and shortly after received his formal appointment from the King and entered upon the duties of his office.

At a meeting of the Municipal Council held on the 16th June, 1891, presided over by Baron Senfft von Pilsach, Mr. Otto Martin was appointed Collector of Customs for the Municipality. His appointment not being unanimously approved by the Consular Board, the matter was referred to the Chief Justice for his decision, the result being that he confirmed Mr. Martin in his appointment as Collector of Customs and Taxes for the Municipality. Mr. Martin from that time up to the 1st April, 1892, acted as Collector of Customs for the Municipality, receiving all duties leviable under the provisions of the Berlin General Act, and the President, as Treasurer, placed such duties to the credit of the Municipal Council.

The Samoan Government appointed officers to collect the revenues apportioned for its use, but no claim was made by the Government on the customs duties, and no attempt was made to interfere with their collection by the Municipal Council.

On the 8th September, 1891, the President, as required by the Berlin General Act, submitted a Budget and statement of accounts to the King and the Municipal Council. This Budget contained a concise statement of the revenue and expenditure during the period extending from the 14th May, 1890, to the 14th May, 1891, and also for the quarter ending the 14th August, 1891. In both statements the customs duties are credited to the Municipal Council, and no question was raised by the King or Government respecting the apportionment of the revenues.

On the 14th February a further balance-sheet and statement of accounts covering the period from the 14th August to the 14th December, 1891, was published (see "Samoa Times," 5th March, 1892). In these statements the customs duties again appear credited to the Municipality, and no claim was made or objection raised by the King or Government.

For many months past it had been generally known that the Samoan Government funds were practically exhausted, and the Government was apparently unable or unwilling to make any attempts to collect further revenue for its own use, although at this time in round numbers 50,000 dollars were overdue on the capitation tax on Samoans (see note A).

Up to the end of February 1892 the Customs Department had been administered in conformity with the Regulations adopted by the Consular Board in 1890, the consideration of the draft of the Customs Ordinance, prepared by the writers at the request of the Municipal Council, having been postponed from time to time on account of the pressure of other business.

About the above date it was resolved, at a meeting of the Municipal Council presided over by Baron Senfft von Pilsach, that the consideration of the draft of the Customs Ordinance should be proceeded with, and the writers were requested by the President to attend a special meeting of the Municipal Council to be held for that purpose on the evening of the 8th March.

Baron Senfft von Pilsach presided over that meeting, and took an active part in the discussions which took place upon certain of the clauses contained in the draft, and voted from time to time when the clauses were put to the meeting. The deliberations continued until 11 o'clock P.M., when it was agreed to resume the consideration of the subject on the 15th March. The President again presided at the meeting of the Council on the 15th March, and again took an active part in the deliberations upon the Customs Ordinance, and again voted from time to time when the several clauses were put to the meeting. At the termination of this meeting the further consideration of the subject was fixed for the 22nd March. On the 20th March the President informed some members of the Council that other business might prevent him from attending the meeting, but that if he did not arrive at the appointed time, the Council should appoint an acting Chairman and proceed with the business. The President did not attend. The Council, according to his directions, appointed an acting Chairman, and the consideration of the draft was completed at that meeting, the clauses therein being passed in their original or in an amended form.

No doubt was expressed by the President at any of the meetings as to the right of the Municipality to the customs duties, nor had even the shadow of a claim been then advanced that they belonged to the Samoan General Government.

Some time between the 15th and 25th March the President appears to have come to the conclusion (under what exigency, and at whose suggestion, has not yet transpired) that the Samoan Government, and not the Municipal Council, was entitled to the customs duties. Without informing the Council in any way of the action he proposed to take, and acting solely in the interests of the Samoan Government, he conferred with the King on the subject, and prompted a demand by the King on himself, as the President of the Municipal Council, for the customs duties which had been collected (see note B). The President thereupon prepared a letter to himself, which was signed by the King, reflecting upon the President for his neglect of his duty by countenancing the apportionment of the customs revenue to the Municipality (see "Samoa Times," 9th April, 1892), and demanding that the sum of 25,000 dol. 41 c. should be transferred from the Municipal accounts to the Government accounts. This amount represents the gross amount of customs duties collected up to the 31st December, 1891, and also all such duties collected since then. On the same date the President, without notifying the Council in any way, inclosed a copy of the letter of the King in an application to the Supreme Court to decide the question which had been raised at his own suggestion (see "Samoa Times," 9th April, 1892). No notice was sent by the Supreme Court or the Chief Justice to the Municipal Council of the proceedings which had been taken, and no opportunity was afforded the Council of adducing any argument or employing legal assistance in support of the claims and rights of the Municipality. The Chief Justice on the 28th March, and in direct conflict with his former verbal decision, declared that the customs duties belonged to the Samoan Government, and not to the Municipal Council (see "Samoa Times," 9th April, 1892).

The decision of the Chief Justice was communicated to the Council on Friday, the 1st April, by the President at a meeting of the Council held on that day. Soon afterwards the Consular Representatives intervened, and an agreement was arrived at that the question as to whether the Municipality or the General Government of Samoa was entitled to the customs revenue should be referred to the decision of the Treaty Powers.

At a meeting held on the 6th April by the Municipal Council, a Resolution was passed protesting against any change in the Administration (see "Samoa Times," 9th April, 1892).

We would submit with confidence on behalf of the Municipal Council, and at the same time with due deference to the Chief Justice, that the powers conferred upon the Supreme Court and the Chief Justice by the Berlin Act do not comprehend the decision of a matter arising under that Act affecting the rights of a section of the population or of

individuals unless such decision be given in the course of civil litigation or criminal proceedings, with the exceptions of:—

1. A reference from the Land Commission.
2. An appeal from the Municipal Court.
3. A reference necessitated by a disagreement of the Consular Board with a Resolution of the Municipal Council, and the further exceptions having regard to—
4. The election of a King (section 6, Article III); and
5. A difference between the Treaty Powers (section 7, Article III).

We would further call attention to that portion of section 2, Article III, which states that "his" (the Chief Justice's) "decision upon matters *within his jurisdiction* shall be final;" and again respectfully and with deference would submit that, upon grounds contained in his Honour's decision, the matter upon which his Honour has pronounced that decision does not lie within his jurisdiction, and that the decision is self-destructive. It is a condition necessary to set the jurisdiction in motion that the matter upon which a decision may be pronounced shall be one which arises upon something contained in the Berlin Act. If the customs duties do not pass under the denomination of "the other taxes" apportioned to the Municipality by clause 3, Article VI, of that Act, as his Honour's decision declares, then, as they are not apportioned to the Samoan Government by that clause, or in any other portion of the Berlin Act, the declaration as to which of the claimants they rightfully belong to is not contained in the Act. If it be not contained in the Berlin Act, the jurisdiction is ousted, and it is therefore not within the scope of his Honour's authority to decide that they belong to the Samoan Government. The customs duties cannot be taken from the Municipality and be paid to the order of the Samoan Government without an amendment of the said clause 3.

It is submitted that his Honour's jurisdiction does not extend beyond the administration of the Berlin Act in conformity with its provisions, and does not comprehend the amendment thereof.

We further submit that as his Honour has, by a decision communicated by him to the Consular Board, decided that the revenue derived from the customs duties belongs to the Municipality, and has furthermore riveted that decision by his written confirmation of the appointment of Mr. Martin as Municipal Collector of Customs on a reference caused by the disagreement of the Consular Board with the appointment made by the Municipal Council, it is not within his Honour's competence to declare by another decision that the revenue derived from such duties belongs to the Samoan General Government.

We respectfully and with due deference point out that consistency is the most essential characteristic required of a Supreme Court, and a deviation by it in matters of vital importance from the direct course of consistency impairs public confidence and shakes the institutions created by the Berlin Act to their foundations. If it be held that the matter is within his Honour's jurisdiction, then his first decision should be accepted as final and equally conclusive upon the Chief Justice as upon the parties affected by the decision.

We further submit that the decision of the Chief Justice is not in accordance with the true interpretation of the Berlin Act. We admit that as a rule customs duties do not belong to Municipal or Local Governments, but to the General Government of a country, and that only under rare and exceptional circumstances could it be otherwise; but we submit that such rare and exceptional circumstances do exist in Samoa, that these circumstances were recognized by the framers of the Berlin General Act, and the Act itself is an exceptional effort of legislation to meet exceptional circumstances. Without referring to these exceptional circumstances, however, we think it is not difficult to show that the meaning of the Treaty is plain and unmistakable. Section 2 of Article VI provides that, "To enable the Samoan Government," &c. The words "Samoan Government" here manifestly include the Apia Municipal Goverment, as the schedules referred to comprise all the various sources of revenue. The words "Samoan Government" are in this section used in a wide and general sense, and the same words are in section 3 of the same Article used in a restricted and particular sense, and in like manner the word "taxes" in section 2 of Article VI is used in a restricted and particular sense to denote particular divisions or classes of taxes specified in the schedule appended thereto, and the same word is used in a wide and general sense in section 3, and means all imposts not apportioned otherwise by that section. It is the real intention and meaning of the sections taken and construed one with another that must form the true interpretation of these provisions. Section 2 declares that the whole revenue of Samoa shall consist, &c., and section 3 declares how the whole revenue shall be apportioned and divided. The section declares that certain specified taxes, "and all other taxes" which may be

collected without the Municipal District, shall be for the use and paid out upon the order of the Samoan Government, and that "the other taxes" which are collected in the Municipal District exclusively shall be held for the use and paid out upon the order of the Municipal Council. Duties are taxes, and as section 3 deals with the apportionment of all the revenue to be collected, it is clear that such duties are here included in the word "taxes." This is the plain unmistakable meaning of the two sections, and is, moreover, in harmony with the rules governing the construction of Statutes. The maxim "*Expressio unius est exclusio alterius*" here applies. Certain taxes out of a specified number are expressly apportioned to the Samoan Government, and therefore, to these, and no others, is the Government entitled. The others which may be collected in the Municipal District are allotted to the Municipality. The customs duties are taxes which are not included in the apportionment to the Government, and are collected in the Municipal District exclusively, and have, therefore, been rightfully collected, and are now justly claimed by the Municipality. Moreover, as the Municipal Council has the sole control of the harbour of Apia, the only port of entry in Samoa, with power to establish pilot charges, port dues, quarantine and other regulations of the port (section 3, Article V), it is naturally the proper body to undertake the collection of the customs duties.

It would appear that much reliance is placed by the Chief Justice upon the fact that in section 2, Article VI, of the Berlin Act the words "duties, taxes, and charges" are used, whereas in section 3 of that Article, in the apportionment of the share of the revenue to the Municipality, the word "taxes" alone is made use of.

If the customs duties do not form part of "the other taxes" which are allotted to the Municipality, then it is impossible that any other view of the matter can be held than that the Representatives of the Powers, after seriously discussing the various items of customs duties, neglected to direct as to how and by whom the revenue derived from that important source should be expended.

It is incredible that the Representatives of the Powers should have made such an omission, and still more incredible that the Governments which they represented should have allowed the omission to pass uncorrected.

It is clear, however, that the framers of the Berlin Act by using the word "taxes" in section 3 intended that all imposts, of whatsoever description, save those previously specified in that section and allotted thereby to the Samoan Government, should be paid to order of the Municipality.

The only justifiable method by which the provisions of the Berlin Act should be construed is that which will give life to the various institutions which it has created. It was generally expected that every effort would be made to give effect to all its provisions, and make them operative and useful, but so far is the Chief Justice's decision removed from the realization of that idea that it virtually consigns the Municipality to extinction, for it deprives the Municipality of the funds necessary for the fulfilment of the duties committed to the Municipal Council by the Berlin Act.

We submit that not only is the Municipality entitled to the customs duties according to the strict construction and also the reasonable and true interpretation of the Berlin Act, but that the claim of the Municipality to such revenue is essentially reasonable and just. The Chief Justice asserts in his decision that to allow the Municipal Council to collect and appropriate the customs duties "would be giving the whole advantage of the comparatively small duties allowed to be levied by the Samoan Government upon foreign goods, wares, and merchandize to the Administration of a Municipality of foreign residents, which, in fact, would have been tantamount to subjecting all the outlying districts of Samoa to taxation for the benefit of the Municipality" (see "Samoa Times," 9th April, 1892). This is an erroneous conclusion deduced from false premises. No increase has been made in the price of imported goods since the imposition of the *ad valorem* duty, no intoxicating liquors are sold to Samoans, no cigars, but little imported tobacco, only a small quantity of gunpowder and sporting arms are used by them. Nearly the whole of the intoxicating liquors and other articles enumerated in Schedule (A), section 2, Article VI of the Berlin Act are consumed within the Municipality, and since the imposition of the export duty on copra, &c., there has been no consequent diminution in the price given for that article. Therefore, practically the whole burden of both import and export duties is borne by the Municipality (see note C). It is manifestly unjust that the foreign merchants and residents of Apia should be compelled or expected to contribute so largely to the support of a Government too weak, too indolent, or too partial to make the slightest effort to enforce payment of taxes from its own subjects. It is clearly inequitable that a Municipality already heavily burdened with one highly-paid official, who, if the decision of the Chief Justice be sustained, will

annually absorb more than half the total revenue of the district, should be compelled to provide the still higher salary of the Chief Justice and the salaries of his staff and the other officials.

In addition to the foregoing considerations, there is the more serious one still that to deprive the Municipality of the customs revenue renders it absolutely bankrupt and makes municipal administration an impossibility. Without the customs duties the Samoan Government under effective control and management would have ample revenue for all its needs. Without the customs duties the Municipality will not have sufficient revenue to pay the salaries of the necessary officials, and will have to abandon the carrying out of every public work of any sort (see letter from ex-Chairman of Board of Works, note F). The requirements of the Municipality in this respect are great and urgent (see "Samoa Times," 1st August, 1891). Roads to be laid out and formed, bridges are necessary, suitable municipal offices and Court-house require to be erected. A new and commodious goal is needed, a retaining wall along the foreshore of the harbour is necessary, a wharf, which alone would cost 25,000 dollars, is indispensable, and there are many other pressing needs. Even with the largest revenue possible (including the customs duties) the surplus over current expenses available for these works would be very small, and it would be many years before they were completed, but without such revenue not one of them can be undertaken.

The Chief Justice affirms in his decision that the estimate of the revenue laid before the Washington Conference on Samoa in 1887 was adopted by the Berlin Conference, but the evidence in support of that statement is not at all clear or satisfactory. It evident that such was not the case, for there was no suggestion at that Conference that out of the revenue the Municipality should pay 5,000 dollars per annum to a President of the Municipal Council. The proposition was that there should be a Mayor (see note D).

We would point out that, assuming the last decision of the Chief Justice to be correct, the Council has been misled and placed in a false position by his previous decision, and by being allowed to retain control of the customs duties for so long a time. Acting *bonâ fide* under this belief, the Council has undertaken certain works and entered into certain contracts and engagements which are now beyond their power to complete or perform.

In brief recapitulation, we would urge that the present decision of the Chief Justice is erroneous and not in accordance with the true interpretation of the Berlin Act; that the manner in which it has been obtained, and the manner in which it has been delivered, are not authorized by the Berlin Act; that the amendment of the Berlin Act which would be the result of his Honour's decision is not within his jurisdiction—that it is directly contrary to his former verbal decision; that the customs duties are apportioned by the Berlin General Act for the use of the Municipality; that as the duties are exclusively contributed and paid by the Municipality, it is just and equitable that they should form portion of the municipal revenue, and unjust and inequitable that they should be diverted from their legitimate channel into the coffers of a Treasury which are empty, not because sufficient sources of revenue have not been provided, but because the officials charged with the administration of the General Government have not taken the necessary steps to collect a revenue that would be ample for all its purposes; that to deprive the Municipality of the customs revenue stops all necessary public works, renders it impossible for the Council to pay the salaries of its officials, and makes the Municipality practically bankrupt.

We have, &c.

(Signed) RICH. HETHERINGTON CARRUTHERS.
WM. COOPER.

Inclosures (not printed).

Note (A). *Re* Samoan capitation tax.

Note (B). *Re* Letter of the King to President, demanding amount of customs duties collected to be placed to the credit of the Samoan Government.

Note (C). Copy of statement of merchants and traders of Apia *re* prices charged since customs duties have been levied.

Note (D). Copy of extract from Protocol (Washington Conference) *re* formation of the Municipality of Apia.

Note (E). Copy of extract from Minutes of Municipal Council of Apia. The Resolution appointing Messrs. Carruthers and Cooper to prepare case for the Municipality.

Note (F). Copy of letter from Mr. H. J. Moors (ex-Chairman of Board of Works) to Messrs. Carruthers and Cooper.

Note (G). Cuttings from the "Samoa Times."

Note (H). Budget of Revenue and Expenditure, issued by the President.

No. 214.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received May* 26.)

My Lord, *Samoa, April* 27, 1892.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 23rd February, respecting the work of the Samoan Land Commission, and have the honour to report that, having urged upon Mr. Haggard the necessity for expediting the progress of the work, he has assured me that there is reasonable possibility of the work of the Commission being, as I anticipated, completed in the two years specified by the Berlin Treaty.

Your Lordship will see from the statement handed to me by Mr. Haggard that much of the delay was caused by the absence of American Commissioners and the regretted unfitness of M. Eggert, through illness, to perform his duties, to which I called attention in my despatches of the 22nd May and 8th December, 1891.

The work of the Land Commissioners has been most thoroughly and well performed, and if they have erred it has been in allowing almost undue facilities to natives to urge objections to the claims of foreigners.

The most patient and detailed investigation of the objections to claims has been necessary.

I append Mr. Haggard's statement.

I am, &c.

(Signed) T. B. CUSACK-SMITH.

Inclosure in No. 214.

Memorandum.

May 24, 1891.—Commissioners met together for the first time.

May 30.—Publication by Commission of organization.

June 1.—Rules of Procedure finally adopted, with forms of claims and objections, &c.

June 1 *to October* 1.—Engaged in receiving claims (and hearing applications *re* same, and rulings with respect to claims and filings) according to section 3, Article IV, of the Berlin Final Act.

August 29.—Natives' Advocate appointed.

September 18.—First list of claims published.

September 18 *to October* 4.—Engaged in working at claims, putting same in order, verifying list of deeds filed, &c.

October 4.—As 2,500 claims were lodged between the 1st September and 1st October, Commissioners could not begin reporting on cases before the 4th October.

October 4 *to November* 7.—Commission engaged reporting and hearing contested claims.

November 7.—Mr. Ide sat no longer on the Commission. He sat twenty-nine working days in all after the 1st October.

November 12.—Mr. Ide left Samoa. M. Eggert very ill; unable to work.

November 12 *to December* 27.—No United States' Commissioner in Samoa, and M. Eggert ill and entirely unable to work.

December 27.—Mr. Ormsbee arrived as United States' Commissioner.

January 4, 1892.—Commission resumed work.

February 26.—M. Eggert sat no longer. He only sat half the day (except on two occasions) after the 4th January, 1892.

March 1.—M. Eggert left Samoa.

March 31.—M. Greiner arrived in Samoa.

April 4.—Commission resumed work.

April 4 *to April* 25.—Commission sat daily reporting and hearing contested claims.

Full working days—hearing and reporting—		
Messrs. Ide, Haggard, and Eggert		29
Messrs. Ormsbee, Haggard, and Eggert		46
Messrs. Ormsbee, Haggard, and Greiner, up to 25th April, 1892		19
Total number of working days since 4th October, 1891 (hearing and reporting cases)		94
Total number of claims filed	3,705	
Total number heard and reported to date	250	
N.B.—Number of contested cases disposed of and reported	60	

Owing to the fact that a large number of test cases have been disposed of, and most of the contested claims in the Municipality have been heard and reported, and from the nature of many other claims (from various causes), I think the Commission can complete its labours within the time specified by Article IV of the Berlin Final Act, 1889.

(Signed) BAZETT M. HAGGARD,
Her Majesty's Land Commissioner.

Apia, Samoa, April 25, 1892.

No. 215.

Baron Senfft von Pilsach to the Marquis of Salisbury.—(Received May 27.)

My Lord, *Apia, April* 25, 1892.

IN pursuance of my communication dated the 30th March, I beg leave to lay before you most respectfully my suggestions for an arrangement allowing the Municipality of Apia some participation in the proceeds of the customs duties, and at the same time providing for an alteration of some items of the Customs Tariff adopted by the Berlin Conference.

In referring to the wording of the Berlin General Act, Article VI, I have the honour to recommend the following changes:—

Section 2 (*a*). Import duties 1 to 8 not to be changed, 9, statistical duty, on all merchandize and goods imported, except as aforesaid, *ad valorem* 10 per cent.

(*b.*) Export duties to be left out.

Section 3. The following addition to be inserted at the end:—

"The proceeds of the customs duties shall be for the Samoan Government, except an amount or a portion which shall be fixed annually by the President of the Municipal Council of Apia, subject to the approval of the King, or in the case of a difference between the King and the President, it shall be fixed by the Supreme Court of Samoa."

In commenting on these proposals I only beg to state that as, under Article V, section 5, the President is in charge of the administration of the Municipal District of Apia, no space is left for the apprehension that this fixation would ever be inadequate to the real requirements of the Administration.

I have, &c.

(Signed) FRHR. SENFFT VON PILSACH.

No. 216.

The Marquis of Salisbury to Sir E. Malet.

Sir, *Foreign Office, May* 28, 1892.

I TRANSMIT to your Excellency herewith copy of a letter in which Baron Senfft von Pilsach renews his resignation of the post of President of the Municipal Council at Apia, and recommends Dr. F. Hagberg as his successor.*

* No. 212.

I have to request your Excellency to communicate Baron von Pilsach's letter to the German Government, and to invite the expression of their views.

I am, &c.
(Signed) SALISBURY.

No. 217.

Count Metternich to the Marquis of Salisbury.—(Received June 22.)

(Translation.)
My Lord, *German Embassy, London, June* 18, 1892.

I HAD the honour to learn, from your Excellency's note of the 6th ultimo, that Her Britannic Majesty's Government hesitates to settle by a declaration by the three Treaty Powers the decision of the Apia Land Commission respecting the interpretation of Article IV, section 8, of the Samoan Act.

According to information received by the Imperial Government from Washington, the American Government is also disinclined to agree to the proposal made in the matter by the Imperial Government. But the American Government shares the view of the case put forward by the Imperial Government, and proposes that identic instructions should be issued to the Consuls at Apia to inform the Chief Justice that the Treaty Powers consider the decision of the Land Commission to be correct. The Imperial Government are of opinion that such a step would be useful in the direction of expediting the labours of the Land Commission, and does not see in it the use of any improper influence on the Chief Justice, as the Treaty Powers must have an unrestricted right of informing the Samoan officials of their views regarding the interpretation of the Samoa Acts.

Under the instructions which I have received, I have the honour to inquire whether the Government of Her Britannic Majesty agrees to the proposal made by the American Government, and is prepared to instruct their Consul at Apia in the sense suggested.

I should be glad to receive an answer at an early date, and have, &c.
(Signed) P. METTERNICH.

No. 218.

Mr. B. Haggard to the Marquis of Salisbury.—(Received June 24.)

My Lord, *Apia, Samoa, May* 25, 1892.

I HAVE the honour to acknowledge the receipt of a despatch dated the 13th April, 1892, inclosing copy of a communication from King Malietoa, and abstract of a letter from "the Natives' Advocate," consisting of complaints made by him against the Samoan Land Commission as regards their mode of executing the work of the Commission. In the above-dated despatch to myself of the 13th April your Lordship set out what seemed at the moment to you to be the proper position to have had assigned to him, the Natives' Advocate, in connection with his duties and his proper relation to the Commissioners. I am happy to be able to state that your Lordship's view corresponds exactly with the position the Commissioners felt he held, and should hold, which position was most ungraciously and unwillingly accepted by him, as he wished to sit as one of the Commission. We considered him "an officer to assist the Commission, as standing Counsel for natives, as a kind of expert Assessor in regard to native questions, but having no voice in our decisions." In your Lordship's despatch of the 13th April, 1892, on forwarding me the above alluded to inclosures, you intimated that you would be happy to receive any remarks I might have to make with respect to the matters therein contained, for which I respectfully express my obligations to your Lordship. That opportunity so offered me, "on behalf of myself and my colleagues," I have taken advantage of, and have prepared a Memorandum in that respect, as an answer to the complaints of the "Natives' Advocate," forwarded by King Malietoa. It bears even date with this, and I have the honour to inclose it. Accompanying it are certain letters (copies), and copies of the Minutes from the Record Book kept by the Commissioners, which bear out the statements contained in the Memorandum. I respectfully request that, on the perusal of the Memorandum, these letters and Minutes may be also

read, as they, it seems to me, present written evidence (at the time made and forwarded) to support my answer. I regret to have had to deal with the Natives' Advocate's complaints at such length, but I could not curtail my reply more, and give a fair and, as I venture to assert, a complete answer to the numerous and seemingly trifling unfounded complaints.

I am glad to be able to inform your Lordship that the work of the Commission is proceeding most satisfactorily. The gentleman "acting Natives' Advocate" gives all the assistance he can, and works as hard as he can, to keep abreast with the work, in presenting the objections of natives for hearing and investigation.

We have reported many (121) claims since my last despatch, of which 26 claims were contested; 401 in all, several of them contested, and intricate cases.

I have, &c.

(Signed) BAZETT M. HAGGARD.

Inclosure 1 in No. 218.

Memorandum containing a Reply to certain Complaints made by the "Natives' Advocate" against the Samoan Land Commissioners.

AS certain complaints have been forwarded by King Malietoa to the Marquis of Salisbury, K.G., from the Natives' Advocate respecting the proceedings and procedure of the Samoan Land Commission, the undersigned Commissioner is grateful that he is permitted to submit the following in answer:—

It is respectfully asserted at once by him as a general statement, to meet the whole complaint, that it is absolutely groundless. That the alleged misdeeds and shortcomings of the Samoan Land Commissioners are as fanciful and imaginary as they are capable of disproof and disposal, and he regrets that his Lordship has to be troubled in a serious way with such in reply. In the first place the Natives' Advocate has no right to say or suggest that the Commissioners have shown "a manifest disregard of native rights," but, having done so, he should not have been content with that, but should have given an instance or instances where, when, or how, "the just provisions of the Berlin Treaty" have been "set aside" by the Commissioners. Had such an instance occurred it could have been adduced. With respect to their supposed misinterpretation or want of appreciation of their duties under the Berlin Final Act, or towards the Natives' Advocate, their changes in rulings, their mis- and non-reception of evidence, their interference with counsel on either side, and the complaint in connection with their interpreter, set out and numbered in the abstract of letter forwarded to his Lordship by King Malietoa, permission is respectfully asked to deal with them in their order.

"1.—(*a.*) The Commissioners claim the right to decide and finally settle disputed claims."

The question of what "the Commissioners claim" is already before the Signatory Powers to the Treaty, and the respective Governments of the Commissioners, for their decision.

"(*b.*) The only public notice they proposed to give of the lands claimed was by an 'Index of Claims,' containing name of claimant, name of parcel of land, and its locality." (See printed Rules of Procedure, which was kept on the Commission room's table.)

The undersigned Commissioner could appreciate the exception taken thus, had the Natives' Advocate ventured to state that there was any rule which precluded or limited the capacity of the Commission to give special notice to natives. As a matter of fact the rule which he refers to was as much departmental as for the general public, in order that at once the Commissioners and Secretary following it should do something to afford facilities to objectors and claimants, without limiting their future action in that direction. The Commissioners were daily expecting and hoping to hear of the appointment of the Natives' Advocate, so that the fair position of native objectors with regard to the inquiry should be arrived at, in order for them to be able to properly present their objections, after consultation with him; but *ad interim*, they wished to afford every opportunity to natives and aliens, and so far as they could see that was, for the time, the only way. The Natives' Advocate was not appointed by the King of Samoa till the 28th August, 1891; he did not arrive at the office in his official capacity till the 31st.

On the 31st August and 1st September the Commissioners and Natives' Advocate were talking over all these matters, and having arrived at a scheme which has been

continuously since adopted, there stared the Commissioners in the face (owing to the decision of the Chief Justice as to their expenditure) the fact that they had no power to incur expenses for special notices.

On the 1st September, 1891, they wrote to the Chief Justice (a copy of which letter is respectfully inclosed herewith), asking if he would allow this expense. On the 3rd September they received a reply assenting, and on the 4th September (a copy of the Minute from the Record Book of the Commissioners is respectfully inclosed) Mr. Thomas Trood was engaged to translate into Samoan the information deemed necessary then. The Natives' Advocate undertook to supervise the translation, to approve the notices, and through Samoan officials to see to their proper and sufficient distribution. That labour he almost immediately repudiated, and the work has had to be done by the Commissioners without his assistance; but the exact plan for distribution of notices and form of list then adopted is still followed.

"(*c*) Now they are publicly delivering Judgments instead of sending their Reports to the Supreme Court; and they do not yet possess a survey plan of the district, by which to test and on which to accurately locate the claims."

The Natives' Advocate is perfectly aware that it is impossible to forward for registration claims and the Reports, until the examination of titles to a whole district has been completed, lest a title should be prematurely registered; and a native objector or a rival claimant, either through carelessness on the part of the Natives' Advocate, or for some other reasons, find that his land has been registered in favour of another, to his detriment and permanent loss. The Natives' Advocate continually requested the Commissioners to reopen claims which he had had every opportunity of notifying to the Commissioners were to be objected to. He had an office and a staff; yet, both with him and the present acting gentleman, the Commissioners find that they have to hark back again to their work, in order that the natives and other parties may receive justice.

The conduct of the Commissioners as regards "a survey plan," has been already disposed of by a despatch from the Marquis of Salisbury of the 8th March, 1892, to the undersigned Commissioner. On every occasion that the Natives' Advocate has said that there is any difficulty in locating parcels of land of objectors, with regard to a claim or claims, the Surveyor to the Commission has gone at once to survey the ground. The natives have been present; a complete survey of the whole of the lands in question has been made, and the respective objections located on the Map made for the Commission.

The "publicly delivering Judgments" is simply to give claimants and native objectors information, as they are naturally anxious, and ask to know the nature of the Reports.

"2.—(*a*.) Although the Natives' Advocate is manifestly regarded in the Treaty and the Protocols as a necessary part of the Commission, and is to assist the Commission in their investigation of titles to land, he alone, of all connected with it, and the special representative of native interests, was denied access to the deeds and other written evidence lodged with the Commission by claimants. Thus a limitation was placed upon the Natives' Advocate, which confined his assistance to the duties of Counsel for native objectors, and excluded him from assisting in the examination of undisputed claims."

The position that the Commissioners considered was assigned to the Natives' Advocate by the Berlin Final Act was that the Natives' Advocate "was an officer to assist the Commission," and should act as standing Counsel for the natives, and as a sort of of Assessor to the Commissioners in native matters, where he would be likely to be well informed, but having no voice in the final decisions of the Commissioners.

On his appointment, this proved unpalatable to the Natives' Advocate, as he wished to assume the position of a Commissioner. *It is untrue* that he "was denied access to the deeds and other written documents." Herewith is inclosed a copy letter of the 26th October, 1891, addressed to the Natives' Advocate by the *then* Commissioners, which it is respectfully requested may be read as part of this Memorandum.

His assertions *then* made, were *then* denied, and, subsequently, he has been daily and continuously, when he chose to come, examining deeds which have been placed unreservedly at his disposal by the Secretary, and so has his successor.

It is true that he at first requested the Commissioners to allow him to take away, from the charge of the Commissioners, deeds and documents of title to peruse elsewhere, which the responsibility of the Commissioners to claimants made an impossibility; nor could the Commissioners at once lay the whole of the deeds and documents before him, to have them at his inspection as a complete whole, owing to the fact that the number of claims and documents lodged within the last month, and especially the last few days, was

so enormous that the Commissioners and Secretary had to go through them to see what they had in charge, and to number and classify them.

They informed him, however, that, with respect to any claim which he might indicate from the index or register, or which was in the list either published or about to be, the Commissioners, upon request, would immediately place all the papers in connection with the claim at his disposal.

He was never refused any association with the Commissioners with regard to the consideration of undisputed claims, and no claim was regarded as undisputed until after he had informed the Commissioners there was no objection to it. As soon as the Commissioners had the deeds and documents in some sort of order they were indiscriminately placed before him at his will. By way of illustration of the above statements, upon the departure of His Imperial German Majesty's Commissioner, the remaining Commissioners realizing that they were not a complete Commission, and the Natives' Advocate might think the ordinary practice that had been followed hitherto was in abeyance, requested him in writing, by letter dated the 2nd March, 1892, and conversation, as they proposed examining claims and documents in order to facilitate work in the future, to sit with them during such examination, which he did for one morning only, and absented himself afterwards (a copy of which letter is respectfully inclosed).

"(*b.*) The Commission have carried their policy of extrusion of the Natives' Advocate so far that a paper read by a claimant as argument, and afterwards handed to the Commission, has been refused to the Natives' Advocate on the ground that it is a private paper in the hands of the Commission."

It is true that a claimant, dead since the occurrence, having made some notes of his *own*, which he referred to during his remarks, handed them to the Commissioners. The Commissioners, out of politeness, took the paper, and considered it properly as being his private notes, and as private. It is also true that the claimant, a very old gentleman, had indorsed on the back of his notes "Argument."

"3. Having announced a ruling on the 12th October, 1891, that in the hearing of contested claims the claimant would be regarded as plaintiff and the objector as defendant; that the plaintiff would require to substantiate his case by proving that his title was not impeachable under any of the clauses of Article IV of the Treaty; and, having proceeded strictly on these lines till the 9th February, 1892, then the Commission required the native objector to put in evidence before plaintiff had completed his case. The Natives' Advocate appealed to the ruling aforesaid, whereupon a new ruling was made throwing the burden of proof upon the native objector."

The Commissioners made no distinct ruling; but stated that the simplest way to proceed was to follow the ordinary rules of procedure adopted in every Court, even of the most limited jurisdiction, namely, that the claimant shoud show his title and the objector point out where it failed, and upon what grounds the objection was founded. One day, in the afternoon, from some cause or other, through illness, or accident, some witnesses for the claimant could not be present, and the Commissioners, in order to save the afternoon for work, requested the Natives' Advocate to proceed with the objector's case; the Commissioners stating that it was an ordinary practice in Courts to facilitate work, unless it was prejudicial to either side. As a matter of fact, the claimant's witnesses were not required to be examined subsequently. That was the extent of the second ruling complained of, namely, that the Commissioners called the evidence of the objector, although the Counsel for the claimant stated he had further evidence which he could give. The Commissioners, from the first, had announced by their Rules that the mode of procedure was at their discretion.

"4.—(*a.*) In the hearing of a contest in claim No. 3058 the Commissioners received in evidence the papers lodged with claim No. 3064. Counsel for objector argued on some of those papers against the claim. He was then told by a Commissioner that the papers of No. 3064 were not put in; and when reminded that some of them had been already used by claimant, the Commissioner asserted that those now appealed to were forgeries. Yet those papers had been received by the Commission as evidence for the claimant."

The Commissioners were examining in a group a series of claims to a valuable piece of land. Certain deeds lodged with some of the claims were proved to be forgeries.

In the hearing of claim No. 3058, Counsel for claimants put in evidence certain papers filed with claim No. 3064 (by the same claimant), but did *not* put in evidence *all* the papers lodged with claim No. 3064. Counsel for a third party interested, *not the Natives' Advocate* or "*counsel for the objector*," in reviewing the case referred to a document lodged with claim No. 3064, which the Commissioners had not seen, and had not considered, it not having been put in evidence. It was in Samoan, and untranslated.

The opposing Counsel for claimants stated that, although it was lodged with claim No. 3064, it was a forgery, and he intended to prove it to be such, on the hearing of No. 3064.

Counsel tendering the document contended that *all papers lodged with No.* 3064 were in evidence. The fact that he had been away from the hearing of the case the day previous accounted for his error. He was informed that *all* the papers were not before the Commission in the hearing of 3058, but if he wished now to put it in he could do so, which he did. He was then unable to read it, much less translate it, and a translation had to be procured by the Commissioners.

"(*b.*) Yet those papers were received as evidence by the Commission for the claimants."

This statement is not in accordance with the facts, for only some documents as above stated had been put in evidence. The Commission in order to arrive at a thorough acquaintance with the history of each claim, and how the land had been obtained, had directed originally, by its Rules and forms, that *every* document of *whatever* nature in the possession of the claimants relating to the lands claimed should be lodged with the claim; but it did not follow that, although the claimant had obeyed that direction, he was to be bound by such document lodged by him, but could disprove it if able and requisite.

It is true that in connection with the lands affected by claim 3058, claims Nos. 165 and 166 were supported by deeds which were proved to be forged, and these claims were reported as "Rejected."

This *garbled* account of these proceedings on the day in question can be partially accounted for by the fact that the Natives' Advocate was on that day absent intentionally.

"(*a.*) A Commissioner has repeatedly advised Counsel for claimants to 'leave well alone' and desist from putting further questions to witnesses, and has repeatedly interfered with legitimate cross-examination by the Natives' Advocate of claimants' witnesses."

The desire of the Commissioners has been all along to proceed as rapidly as is possible consonant with justice.

In the hearing of contested cases, upon Counsel for claimants having shown a *primâ facie* case, and apparently proceeding with cumulative evidence only, and admitting that the evidence about to be called was only cumulative, a Commissioner and Commissioners have said "leave well alone," and have intimated they did not require further evidence of that description at that stage of the proceedings at any rate.

And also the Natives' Advocate, owing to his ignorance of the value and weight of evidence, for the same reasons has been requested not to waste the time of the Commission by unimportant and irrelevant questions.

"(*b.*) Advantage has been taken of the inexact manner of Samoan speech and the scanty knowledge of English on the part of the half-caste interpreter to turn the answers of witnesses to the disadvantage of the native objector, and in favour of the claimant."

This is untrue.

The Commissioners secured, as they believed then and still believe, the services of the best interpreter in Samoa, who has for years past been engaged in Court work; and, although not a scholar as far as writing is concerned, has a perfect mastery of the Samoan language and customs, and is universally regarded as the ablest man for the work. Being half a native, married to a native, and living amongst natives, it is common knowledge he has no predilection in favour of aliens. His acquaintance with English is amply sufficient to convey a just and accurate description of the evidence. The Commissioners have entire confidence in him.

The Commissioners have had to complain of, and have realized all along, the want of adaptability of the Natives' Advocate for his work in all its branches. To convey an estimate of his capacity, or want of capacity, upon an inquiry which was as to the validity of a *mortgage*, where the loan was admitted, he requested the Commissioners to reject it for "want of consideration" (as "the loan was small in comparison with the value of the land") under subsection (C) of section 11 of Article IV of the Berlin Final Act.

The Commissioners remarked that *that* could not apply to a mortgage, and asked him if his contention really was that the charge upon the lands should have been of equal value to the land in question to make it valid; and that the validity of a mortgage could not be questioned, under said section of the Berlin Final Act, in consequence of the trifling nature of the amount loaned. He persisted. Such a contention as this on the part of the Natives' Advocate will appear almost incredible.

The Commissioners were unable to satisfy him and convince him wherein lay the difference between a mortgage and its attributes, and the absolute conveyance by way of sale of a freehold, in connection with the "want of consideration."

The above reply, as contained in this Memorandum, to the complaints made by the

"Natives' Advocate," forwarded by King Malietoa, is framed and communicated by the undersigned Commissioner, on behalf of himself and his colleagues," in accordance with an intimation agreeably contained in a despatch to him, bearing date the 13th April, 1892, and is submitted, with the highest respect, for the consideration of the Marquis of Salisbury, K.G.

(Signed) BAZETT M. HAGGARD,
Her Britanic Majesty's Land Commissioner for Samoa.

Apia, Samoa, May 25, 1892.

Inclosure 2 in No. 218.

The Samoan Land Commissioners to the Rev. A. Claxton.

Sir, *Land Commission Office, Apia, Samoa, October* 26, 1891.

WE have the honour to acknowledge the receipt, on the 22nd October, of your letter dated the 21st October, inclosing an objection, dated the 13th October, by King Malietoa to all claims upon List No. 1 not heretofore objected to by you. If such an objection should be received and acted upon, all regular Rules of Procedure necessary for moving our work forward would be disregarded, and unreasonable delay ensue. The Treaty clearly contemplates that some claims will be undisputed, and provides that such claims "shall be entered of record."

In September we published List No. 1 of fifty claims, and gave, with your advice and assistance, ample public notice that objections to claims on that list should be made through you on or before the 1st October, and that the cases would be in order for investigation on and after that date. In fact, you filed objections as late as the 18th October.

The second list was in order for filing objections and hearing on the 22nd October. Full hearings were heard upon disputed claims. The undisputed ones were all carefully investigated by us, and the titles verified as the Treaty requires. They were first investigated by you, and you announced that they were not disputed. They were verified, by your assistance, in the manner aforesaid. You were not present when we made our examination of them and made up our Reports thereon, nor did you request to be. On the contrary, you were very fully occupied in making your preliminary investigations, so as to eliminate the undisputed cases, and in preparing objections and organizing your contests. We had completed the examination of undisputed cases on the 21st October, the day before your letter reached us. But the objection signed by the King was made out in your handwriting and signed the 13th October and kept back, while our work was going on. Such delay seems like trifling with us. If received now, this objection would require us to reinvestigate more than forty cases, to which no objection has heretofore been made, and in regard to which there is no intimation that injustice has been done. It is the duty of the Natives' Advocate to *assist* the Commission, not to obstruct it. We decline to act upon this objection, unseasonable as it is, and indicating no defence to the claims. If, however, there is any claim upon that list in regard to which you can show to us that an injustice has been done, we will re-examine it.

It is not true that you have been denied access to any deed. On the contrary, you were expressly notified that upon application, and for good cause, the deeds would be placed before you for examination, and all deeds were produced in disputed cases. But you made no such application. The difficulty comes largely from the fact that your appointment was delayed for more than three months after the organization of the Commission, and your work of investigation was then so far in arrears that you have been, perhaps, compelled to delay our work in consequence. But with 3,700 claims to dispose of, and less than two years to do the work in, we must proceed with regularity and dispatch, as far as is consistent with justice, and we shall expect you to aid and not hinder us.

To avoid any possible ground of complaint, and to enable you to aid the Commission by seasonably notifying us of uncontested claims, it has been decided that for the present, and until this ruling is changed or withdrawn, all deeds accompanying claims in each list shall be open to your inspection as soon as the list is published, which will give you thirty days thereafter in which to file objections. You will thus have examined every claim and its deeds, and can eliminate those that no native wishes to contest.

It is our intention to furnish all parties all reasonable facilities, and then to do exact justice. We assume that you appreciate our intention so to do.

The Notices to natives are made and distributed under your own supervision, and doubtless you will be able to see that they are sufficient.

Will you kindly send a copy of this letter to King Malietoa?

We remain, &c.

(Signed) HENRY C. IDE.
BAZETT M. HAGGARD.
C. EGGERT.

Inclosure 3 in No. 218.

Extract from p. 206 of the Record Book of the Minutes of the Proceedings of the Samoan Land Commission.

Sir, *Land Commission Office, Apia, Samoa, September 1, 1891.*

THE Natives' Advocate is of the opinion that notices of certain details of claims to lands presented to the Land Commissioners by aliens should be translated into the Samoan language and furnished in printed forms to natives to enable them to prepare their objections intelligently.

The Commissioners have concurred in thinking such a course proper. We are unable now to state the details of the expense of such proceeding, but to avoid subsequent misunderstanding, we request that your approval be given in advance to such expense as may be found necessary and reasonable for preparing, translating, printing, and issuing such Notices.

We remain, &c.

(Signed) HENRY C. IDE,
BAZETT M. HAGGARD,
C. EGGERT,
} *Commissioners.*

To his Honour C. Cedercrantz, Esq.,
Chief Justice of Samoa.

Inclosure 4 in No. 218.

Extract from p. 209 of the Record Book of the Minutes of Proceedings of the Samoan Land Commission.

ON the 4th September, 1891, Thomas Trood was engaged to serve during the will of the Commissioners as translator at a payment of 10 dollars, United States' currency, for the translating and supervising the printing and the distribution of each of the lists of claims providing notice to natives, per each notice. The work to be done under the supervision and correction of the Natives' Advocate.

Inclosure 5 in No. 218.

The Samoan Land Commissioners to the Rev. A. Claxton.

Dear Sir, *Land Commission Office, Apia, Samoa, March 2, 1892.*

UNTIL the present vacancy in the Board is filled we propose to meet, from day to day, both forenoon and afternoon (when the trial and hearing of cases will be proceeded with), for the purpose of examination, comparison, and verification of deeds, claims, and accompanying papers, believing that thereby much progress can be made.

We expect, and if need be request, that you will be present at these meetings to "assist" us in our work, and at the same time familiarize yourself with the location of each claim, its extent, &c., in all which it will be our pleasure, by suggestion or otherwise, to expedite your work.

We would also say that we would like an interview with you at our office at 3 P.M. (Wednesday) this afternoon in reference to the above suggestion.

We remain, &c.

(Signed) E. J. ORMSBEE.
BAZETT M. HAGGARD.

No. 219.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received June 24.)

My Lord, *Samoa, May 26, 1892.*

I HAVE the honour to report that the general situation is to a certain extent improved.

Public feeling among the white residents in Apia is quieter.

The old order of things has altered very much during the past year, many old residents having died or removed.

The new comers know nothing of and are not fettered by old traditions, and as the old traditions are the causes of trouble in Samoa, the future looks more hopeful.

Samoa is divided into two distinct and sharply-defined spheres of action and influence —the white Municipality of Apia and the Samoan Native Government.

If the wishes, requirements, prosperity, and general welfare of the former are studied as far as is possible, instead of being obstructed by ill-advised measures, and if the white residents are kept contented and satisfied, no very difficult task, then a contented Municipality will always mean a peaceful Samoa.

When discontented, the white residents have always retaliated by stirring up intrigues, revolts, and wars among the natives.

When contented, the white residents take no interest whatever in native affairs, except commercially, and would leave the white officials a free hand in dealing with native matters.

Without the moral support of the white residents I believe that no Samoan Government can ever be successful.

Some white residents on the Privy Council of the King would be of immense value in advising with the President, and were proposed measures previously discussed, hasty and irritating action would be avoided.

It is absolutely necessary for the success of the Treaty here that the Consuls and the two white officials should be able to work hand and glove in all things until the Samoan Government becomes firmly established.

Your Lordship knows that, if possible, I should like to see the interference of the Consuls in municipal matters reduced to a minimum to avoid friction, but as that cannot be, it is more than ever necessary that both President and Chief Justice should meet us in a friendly, and not a hostile, spirit.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 220.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received June 24.)

My Lord, *Samoa, May 25, 1892.*

I HAVE the honour to report the arrival on the 17th May of the German war-ship "Sperber," Captain Fischer, from Sydney.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 221.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received June 24.)

My Lord, *Samoa, May 25, 1892.*

I HAVE the honour to forward copies of a letter, dated the 14th May, from the President of the Municipal Council to the Consular Board relative to the Resolution passed by a majority of the Municipal Councillors protesting against any change in the administration of the municipal finances.

Our reply, which is appended, shows that the whole matter being referred to the Treaty Powers, the Consuls merely noted the Resolution or Protest.

We have on frequent previous occasions "noted" Resolutions which did not require, or to which it was not advisable to give, a formal decision.

I also have the honour to inclose an extract from another letter from the President to the Consular Board, dated the 12th May, relative to the statement drawn up by the lawyers on behalf of the Municipality, and inclosed in my despatch of the 26th April, and which it now appears was not submitted to the President as it should have been before being handed to the Consuls.

I have written the reply annexed. The statement of the lawyers must not, therefore, be considered as the authorized statement on behalf of the Municipal Council.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

Inclosure 1 in No. 221.

Baron Senfft von Pilsach to the Consular Board.

Gentlemen, *Apia, May* 14, 1892.

WITH reference to the Resolution of the Apia Municipal Council passed on the 6th April last, viz., to protest against any change in the administration of the Municipal District as carried on since May 1891, it is said in your letter, dated 5th instant, that you had "noted" the same.

In recollecting that, according to the Berlin Treaty, you "shall either approve and return" the Council Resolutions, "or suggest such amendments as may be unanimously deemed necessary by you," I do not believe that as long as the Powers are bound by that Treaty their Representatives are at liberty to take such a standpoint as you have assumed towards the above-mentioned protest Resolution. Apparently your Governments have inflicted the duty upon their Consuls to deliberate on the Resolutions of the Municipal Council, and to furnish that body with some result of such deliberation.

There has never been a misunderstanding that the protest in question demanded me to ignore the decision of the Supreme Court, issued on the 28th March, 1892, concerning the proceeds of the customs duties. Consequently, under the existing circumstances, this protest constituted a public act of defying that institution which undoubtedly has been created by your Governments as the very foundation of the whole agreement they have arrived at in 1889. There exists no uncertainty for me that I shall use every legal means for preventing that a doubt might arise at any later time, whether or not such act has become formally valid. Still, before taking any further step, I deem it indispensable to submit to your consideration the question if you will finally refrain from deliberating on the subject and notifying to the Council your conclusion.

I hardly need to add that your first communication, as quoted above, must be understood generally as being in favour of the protest which had been passed by four members of the Municipal Council.

I have, &c.
(Signed) FRHR. SENFFT VON PILSACH,
President of the Municipal Council.

Inclosure 2 in No. 221.

The Consular Board to Baron Senfft von Pilsach.

Sir, *Apia, Samoa, May* 25, 1892.

WITH regard to the Resolution mentioned in your letter of the 14th May, 1892, to the Consular Board, we have the honour to inform you that by noting the said Resolution we have neither approved nor disapproved it, and still reserve our decision.

We cannot agree with your inference that by noting the Resolution "it must be generally understood that we are in favour of the protest."

We have, &c.
(Signed) T. B. CUSACK-SMITH,
Her Britannic Majesty's Consul.
BIERMANN,
Imperial German Consul.
W. BLACKLOCK,
Vice-Consul-General, United States of America.

Inclosure 3 in No. 221.

Baron Senfft von Pilsach to the Consular Board.

(Extract.) *Apia, May* 12, 1892.

YOUR letter, dated the 5th instant, contained your approval of the Council's Resolution passed on the 6th April concerning a statement relating to the administration of the customs duties, to be laid before the three Treaty Powers.

When the Council had been acquainted with your approval, and the question was before them how to execute that Resolution, then one member reported the statement in question had been already drawn up and conveyed by the last mail to America and Europe. The member had understood that either the Consular Representatives, or Her Britannic Majesty's Consul, had instructed Messrs. Cooper and Carruthers to do so.

I have the honour to request an information of the Consular Board whether or not they have induced their members, or part of them, to confer with Messrs. Cooper and Carruthers upon carrying out the aforesaid Resolution of the Municipal Council.

Inclosure 4 in No. 221.

Consul Cusack-Smith to Baron Senfft von Pilsach.

My dear President, *Samoa, May* 20, 1892.

I SAW, at our meeting of the Consular Board, that in your letter you thought I might have given instructions as to the statement prepared by Messrs. Cooper and Carruthers on behalf of the Municipal Council.

I need, I think, scarcely assure you that I gave no orders in the matter, and imagined that, as a matter of course, the Municipal Council was supervising the statement.

I received the statement after I had finished my despatches, and merely forwarded it without comment.

If, as I understand from your letter, the statement was informal, I should like to notify Her Majesty's Government by this mail.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

Inclosure 5 in No. 221.

Resolution passed by the Municipal Council of Apia, April 6, 1892.

PROPOSED by Mr. Moors, seconded by Mr. Edwards, to resolve as follows, viz.: "The Municipal Council herewith protests against any change in the administration as carried on since May 1891 up to the 28th March, 1892."

Carried by 4 against 1 vote; the President and Mr. Haidlen abstaining from voting.

No. 222.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, June* 24, 1892.

WITH reference to your despatch of the 9th December last, I am directed by the Marquis of Salisbury to inform you that an identic letter was on that date addressed by King Malietoa to the Governments of Great Britain, Germany, and the United States, requesting the assistance of their ships of war at Apia to enable the Supreme Court of Samoa to execute its warrants.

With a view to uphold the system of judicature established by the Final Act of the Conference of Berlin on Samoan affairs, the Treaty Powers are disposed, upon certain conditions, to accede to King Malietoa's appeal, and an understanding as to the procedure to be adopted in such cases has been arrived at. You will find it recorded in the inclosed Memorandum, and you will be guided by the rules there laid down in any future action which you may have to take in this matter.

You are authorized to inform the Samoan Government of the decision come to, and you should concert with your colleagues of Germany and the United States, to whom similar instructions will be sent, as to the form in which this communication should be made.

The British naval authorities in the Pacific have also received instructions which will insure their co-operation when it is required.

I am, &c.
(Signed) P. CURRIE.

Inclosure in No. 222.

Memorandum.

THE intervention of ships of war will be restricted to the action required for executing the warrants of arrest issued by the Supreme Court. Such intervention is to take place only on a requisition from the Consul of the country to whom the vessel belongs, and he will make the requisition only on occasions when the Consuls of the three Treaty Powers are unanimously of opinion that such support is necessary, and request him to apply for it.

The execution of warrants for the arrest of persons other than natives should, if possible, be intrusted to a ship of war of the nationality of the person to be arrested. In other cases, any action that may be taken in compliance with these requisitions should, as far as possible, be taken by the ships of war in turn.

It is to be borne in mind that the intervention of the ship of war in these cases should have the character of an executory measure against individuals, and should not lead to any warlike action. There will thus be antecedent reasons against the employment of ships of war in cases where the desired end cannot be attained without an expedition far into the interior.

The question whether compliance with a requisition is practicable from a military point of view is one that must be left to the discretion of the Commander of the ship of war concerned.

No. 223.

The Marquis of Salisbury to Sir E. Malet.

Sir, *Foreign Office, June 24, 1892.*

THE German Chargé d'Affaires made to-day a verbal communication to the following effect:—

The Chief Justice at Apia has recently decided that, according to the provisions of the Samoan Act, the revenues from import and export duties received up to the present time for the Municipality of Apia are not due to the Municipality, but to the Samoan Government. If this decision is carried into effect, the Municipality would lose the greatest part of their revenues. The decision of the Chief Justice has, therefore, caused in the Municipality a considerable agitation, which has found its way into the European and the Australian press.

The Imperial Government are of opinion that the decision of the Chief Justice should not be maintained. The decision has been issued without giving the Municipality an opportunity to bring forward their rights; it reverses a state of law existing up till now with unanimous consent, and finally differs from the provisions of Article VI, section 3, of the Samoan Act, respecting the distribution of revenues. According to the opinion of the Imperial Government, these provisions must undoubtedly be applied to revenues from duties. It is to be added that the duties are chiefly raised from and borne by residents of the Municipality. If only for this reason it would be fair to continue to grant these revenues to the Municipality. This procedure is the more recommendable as it warrants the useful and approximate expenditure of the revenues, which, in the present state of things, cannot be expected to the same extent, if they are delivered to the Samoan Government.

The Imperial Government hope that Her Majesty's Government will agree with the Imperial Government that the former state of things should be maintained, according to which the revenues from duties belong to the Municipality. In this case it would be necessary to inform the Consuls of the unanimous opinion of the three Governments, and

to instruct them to direct the President of the Municipality, in the name of the Treaty Powers, to continue to receive the duties for the Municipality. At the same time it would be necessary to inform the Chief Justice of the decision taken.

The Imperial Government think that there can be no doubt that the Treaty Powers are not bound to accept the decisions of the Chief Justice in questions of the construction of the Samoa Act. The provisions of Article III, section 4, of the Samoa Act, according to which decisions of the Supreme Court are only conclusive upon all residents of Samoa, support this view.

I am, &c.
(Signed) SALISBURY.

No. 224.

*The Marquis of Salisbury to Sir E. Malet.**

Sir, *Foreign Office, June* 24, 1892.

WITH reference to your Excellency's despatch of the 8th April last, I transmit to you herewith, for communication to the Government to which you are accredited, a copy of an instruction which I have addressed to Her Majesty's Consul in Samoa,† in regard to the conditions on which the three Treaty Powers concerned have agreed to accede to King Malietoa's request that their ships of war in Samoan waters might be permitted to enforce the authority of the Supreme Court of Samoa in the execution of its warrants.

Your Excellency will at the same time inform the German Government that instructions in the same sense have been sent by Her Majesty's Government to the British Commander-in-chief on the Australian Station; and you will express a hope that similar instructions may shortly be forwarded to the German Consular and Naval authorities, if they have not been already issued.

I am, &c.
(Signed) SALISBURY.

No 225.

Count Metternich to the Marquis of Salisbury.—(Received June 28.)

(Translation.)
My Lord, *German Embassy, London, June* 27, 1892.

WITH reference to my note of the 2nd May, I have the honour to inform your Lordship, in accordance with the instructions which I have received, that M. Grenier, who has been appointed to act as the German member of the Land Commission in Samoa, arrived at Apia and took up his duties on the 1st April last.

I have, &c.
(Signed) P. METTERNICH.

No. 226.

The Marquis of Salisbury to Count Metternich.

M. le Chargé d'Affaires, *Foreign Office, June* 30, 1892.

I HAVE the honour to acknowledge the receipt of your note of the 18th instant, communicating a proposal which has been made by the United States' Government, and which meets with the concurrence of the German Government, to the effect that an identic instruction should be issued to the Consuls of the three Powers at Apia, directing them to inform the Chief Justice of Samoa that the Treaty Powers consider the recent decision of the Land Commissioners in regard to section 8, Article IV, of the Final Act to be correct.

The German Government inquire whether Her Majesty's Government are prepared to instruct the British Consul at Apia in the sense suggested.

* Also to Mr. Herbert. † No. 222.

I have lost no time in requesting the opinion of the Law Officers of the Crown upon this subject, and shall have the honour of again addressing you as soon as I am in receipt of their reply.

I have, &c.
(Signed) SALISBURY.

No. 227.

Mr. Herbert to the Marquis of Salisbury.—(*Received July* 18.)

My Lord, *Washington, July* 8, 1892.

I HAVE the honour to inform your Lordship that Mr. Sewall has resigned his appointment as United States' Consul in Samoa.

I have, &c.
(Signed) MICHAEL H. HERBERT.

No. 228.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received July* 21.)

My Lord, *Samoa, June* 18, 1892.

I HAVE the honour to report the arrival here on the 7th June of Her Majesty's ship "Curaçoa," Captain Gibson, R.N.

The ship leaves here for Fiji on the 22nd June.

The German war-ships "Bussard" and "Sperber" are in harbour.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 229.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received July* 21.)

My Lord, *Samoa, June* 22, 1892.

I HAVE the honour to report that Mr. Thomas Maben, a British subject, has been appointed by the King to be "Secretary of State," to conduct all correspondence, and, as far as I can gather, to relieve Baron Senfft von Pilsach of all executive work connected with the Samoan Government.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 230.

Mr. Maben to the Marquis of Salisbury.—(*Received July* 21.)

My Lord, *Mulinuu, Samoa, June* 23, 1892.

I BEG most respectfully to be allowed to address you unofficially on the matter of my taking the position of Secretary of State in the Samoan Government. I presume our Consul here has reported the fact to you by the same mail that takes this. I felt that as a British subject I might be permitted to address a letter to your Lordship stating as well and shortly as I could my reasons for accepting the appointment in the present very unsettled state of the country.

It seems that the King, Chief Justice, and President of the Municipal Council had come to the conclusion that it had become necessary to appoint some one with local knowledge to administer the internal affairs of the country, and their choice fell upon me. I felt considerable hesitation in accepting the position offered me, because I saw that the time had gone past when a vigorous administrative policy might have welded

the different factions in Samoa, and caused the laws to be obeyed and the taxes paid by all the people in these islands. On the other hand, I thought that as I had held the position of Surveyor-General for some time past I might accept the new appointment in addition to the one I already held, and if I could succeed in bringing about a better state of affairs, well and good; if I failed, well, the country would be in no worse position than it was when I took office.

I am very anxious to make this clear to your Lordship, that the office was not of my seeking, and that I am not at all sanguine that I can now effect much improvement in the condition of the country, because I think the opportunity for vigorous action was lost at the time the Chief Justice arrived here. Had the whole machinery of government been organized and carried into effect then, I feel sure that the Mataafa opposition would not now be in existence. At that time the Samoans fully believed that the provisions of the Berlin Final Act would be strictly enforced by the three Great Powers if necessary. Now they have a different opinion, and they feel that with a strong faction in opposition to the Government they can set the law at defiance. To attempt to enforce the payment of taxes from the opposition party without the aid of outside pressure would, I feel certain, lead to civil war. This the Government are trying all they can to avoid by not taking aggressive action.

The last year's taxes are over three months due, and the attempt is only now being made to collect them. The people are naturally averse to paying taxes, and if by joining the faction opposed to the Government they can secure exemption they are very likely to take that course.

I will not trouble your Lordship with any further details, as I have no doubt you are kept well informed from here.

My only object in writing is to place the facts in connection with my appointment before your Lordship, so that you may judge of the circumstances surrounding the position at the present time.

I have, &c.
(Signed) THOS. MABEN.

No. 231.

The Marquis of Salisbury to Count Hatzfeldt.

M. l'Ambassadeur, *Foreign Office, July* 21, 1892.

HER Majesty's Government have had under their consideration, in consultation with the Law Officers of the Crown, Count Metternich's note of the 18th ultimo respecting the decision recently given by the Samoan Land Commission upon the construction of section 8, Article IV, of the Final Act of the Conference on Samoan affairs.

Count Metternich stated that the American Government have put forward a fresh proposal in the matter which meets with the approval of the German Government, and which the latter desired to submit for the concurrence of Her Majesty's Government.

It was to the effect that identic instructions should be issued to the Consuls of the three Powers at Apia, directing them to inform the Chief Justice of Samoa that the Treaty Powers consider the above-mentioned decision of the Land Commissioners to be correct.

Her Majesty's Government are advised that the correctness of the decision of the Land Commission is open, at any rate, to considerable doubt. The words "without prejudice to rights of third parties"—which form part of the section—appear to be intended to preserve the rights of persons who claim to have been entitled to the lands, as against the vendors; the title of the vendor and the sufficiency of the price not being matters with which the Commission is entitled to deal in cases where the sale took place before the 28th August, 1879.

But their legal advisers have not considered it necessary to express a decided opinion upon this question, as it is one which must eventually be considered, and can only be actually decided, by the Chief Justice sitting in his judicial capacity.

Her Majesty's Government are advised that the course proposed for their concurrence by the German Government is not one which they can properly adopt.

The Chief Justice is an independent judicial officer appointed under Treaty provisions, and it cannot be supposed that he would allow himself to be influenced in

the interpretation of that Treaty by the views of any Governments as to the advantage as matter of policy of a particular construction.

I have, &c.
(Signed) SALISBURY.

No. 232.

Baron Senfft von Pilsach to the Marquis of Salisbury.—(Received July 22.)

My Lord, *Apia, Samoa, June 16, 1892.*

I HAVE the honour to forward to your Lordship two printed copies of an Ordinance regulating the collection and arrangement of the revenue of Customs.* It has been framed in conformity with "The Customs Regulation Ordinance, 1881," enacted in Her Britannic Majesty's Colony of Fiji, a few clauses of the latter having been altered according to local circumstances.

I most respectfully submit the request to your Lordship that you will order the necessary steps to be taken for the purpose of rendering applicable the provisions of the said Ordinance to the British subjects living in Samoa.

I have, &c.
(Signed) FRHR. SENFFT VON PILSACH.

No. 233.

Count Hatzfeldt to the Marquis of Salisbury.—(Received July 22.)

(Translation.)

My Lord, *German Embassy, London, July 20, 1892.*

THE British Ambassador at Berlin, by instructions from his Government, communicated in a note dated the 29th ultimo an extract from a Report from the British Consul at Samoa dated the 26th May. The British Representative is of opinion that the establishment and preservation of order in Samoa requires that the Administration of the country should make it their first consideration to protect and advance the interests of the foreign settlers and merchants. Consul-Cusack Smith considers it necessary that the two European officials in the Administration, the Chief Justice, and the President of the Municipal Council should keep more in touch with the Consuls of the Treaty Powers, in order to join in their efforts to arrive at the above-mentioned object.

I am directed to express to your Lordship the thanks of the Imperial Government for this communication, of which they have taken note with all the more interest inasmuch as they consider the views of the British Consul to be absolutely correct, and have been guided by these considerations in all the proposals they have had to make owing to events in Samoa; the latter is particularly true in the case of the position taken up by them in the question of the division of the import duties between the Municipality and the Samoan Government. In the face of this case the Imperial Government are forced to the conclusion that both the Chief Justice of Samoa and the President of the Municipal Council do not always in their measures give enough consideration to the interests of the white population, but are inclined, on the contrary, to subordinate them to those of the natives. Your Lordship has doubtless come to the same conclusion, and the question arises whether it would not be advisable to make a communication to the President of the Municipal Council in the sense of the views expressed in the British Consul's Report, and to combine this communication with the answer to be sent to Baron Senfft in reply to his request to be allowed to resign.

In accordance with my instructions I have to request your Lordship to let me have an expression of your views on the subject, and I beg leave at the same time to inform your Lordship that a similar inquiry has been made by the Imperial Government at Washington.

I have, &c.
(Signed) v. HATZFELDT.

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* Not printed.

No. 234.

Foreign Office to Mr. Maben.

Sir, *Foreign Office, July* 23, 1892.

I AM directed by the Marquis of Salisbury to acknowledge, with thanks, the receipt of your communication of the 23rd ultimo respecting your appointment as Secretary of State in the Samoan Government.

I am, &c.
(Signed) T. H. SANDERSON.

No. 235.

Mr. Herbert to the Marquis of Salisbury.—(Received July 25.)

My Lord, *Newport, Rhode Island, July* 14, 1892.

I HAVE the honour to inform your Lordship that I addressed a note to the United States' Government on the 5th instant, in the sense of your Lordship's despatch of the 24th ultimo, in regard to the conditions on which the Treaty Powers concerned have agreed to accede to King Malietoa's request, that their ships of war in Samoan waters might be permitted to enforce the authority of the Supreme Court of Samoa in the execution of its warrants.

I have now received a note from Mr. Foster in reply, copy of which I have the honour to inclose herewith, forwarding copy of the instructions which have been sent to the United States' Vice-Consul at Apia on the subject.

I have, &c.
(Signed) MICHAEL H. HERBERT.

Inclosure 1 in No. 235.

Mr. Foster to Mr. Herbert.

Sir, *Department of State, Washington, July* 11, 1892.

I HAVE the honour to acknowledge receipt of Sir J. Pauncefote's note of the 19th April last, and of your note of the 5th instant, and to inclose, for your information, a copy of an instruction to the Vice-Consul of the United States at Apia, of the 11th instant, concerning the joint action of the three Treaty Powers in Samoa in the use of their war vessels to aid in the enforcement and execution of the warrant issuing from the Superior Court of Samoa.

I have, &c.
(Signed) JOHN W. FOSTER.

Inclosure 2 in No. 235.

Mr. Wharton to Mr. Blacklock.

Sir, *Department of State, Washington, July* 11, 1892.

REFERRING to the identic note of King Malietoa to the Governments of the United States, Great Britain, and Germany, dated the 9th December, 1891, requesting the aid of their war vessels in the enforcement and execution of the warrants issuing from the Supreme Court of Samoa, and to your despatch of the 5th January, 1892, relating to the same subject-matter, I have now to instruct you that, in accordance with the suggestions of this Government, the Treaty Powers have instructed, or propose to instruct, their Consular Representatives in Apia in conformity with the Memorandum herewith inclosed.

Upon the receipt by the Consular officers of Great Britain and Germany of like instructions, you are instructed to be governed in your actions in the future by the terms of the Memorandum, and to communicate it to the Samoan Government.

A copy of the Memorandum has been transmitted to the Navy Department.

I am, &c.

(Signed) WILLIAM F. WHARTON,
Assistant Secretary.

Inclosure 3 in No. 235.

United States' Memorandum on Samoan Warrants.

ANY ship of war of the three Treaty Powers which, for the time being, may be present in Samoa, may aid, when necessary, in executing warrants issuing from the Supreme Court of Samoa. Such assistance is to be furnished only upon the request of the Consular officer of the country to which the ship belongs, and such ship will act only when the Consular officers of the three Treaty Powers are unanimously of the opinion that such assistance is necessary, and shall authorize the request for assistance.

Assistance in the execution of warrants in the cases of persons other than natives should, if possible, be requested of a ship of war of the nationality of the person against whom the warrant is issued. Otherwise, such assistance should be furnished by the ships of war in turn as far as practicable.

The action of ships of war hereby authorized is executory simply against individuals, and is in no sense warlike, and no request should be made for their assistance, when the object to be attained can be accomplished only by an expedition into the interior of the country.

The Commander of the ship of war, upon whom the request is made, must, in his discretion, decide in each case whether or not compliance with the request is practicable from a military point of view.

No. 236.

The Marquis of Salisbury to Count Hatzfeldt.

(A.)

M. l'Ambassadeur, *Foreign Office, August* 12, 1892.

HER Majesty's Government have carefully considered, in communication with the Law Advisers of the Crown, the verbal communication made by Count Metternich on the 24th June last, explaining the views of the German Government on the difference of opinion which has arisen as to the apportionment of the import and export duties in Samoa, leviable under the provisions of Article VI of the Final Act of the Berlin Conference on the affairs of Samoa.

The matter at issue appears to resolve itself into a question as to the merits and validity of a decision given by the Chief Justice of Samoa on the 28th March last, by which these duties were assigned to the use of the Samoan Government. That decision is contested by the Municipal Council of Apia, who lay claim to the dues, and have formally appealed to the Treaty Powers for a determination of the points in dispute, and in the meanwhile a temporary compromise has been effected through the intervention of the Consular Board.

As matters at present stand, it seems clear that if the Samoan Government are deprived of the duties, they will be practically bankrupt, and unable to carry on the Administration, since it appears to be generally admitted that the capitation-tax cannot be collected; whilst, on the other hand, the Municipality will be reduced to the same position if the duties are withdrawn from them.

The German Government state that in their opinion the decision of the Chief Justice should not be maintained, and they express a hope that Her Majesty's Government will concur in this view, in which event they propose that the three Treaty Powers should overrule the decision in question, and instruct their Consuls to direct the Municipal President to receive and apply the import and export duties on account of the Municipality.

Her Majesty's Government are advised that the decision of the Chief Justice is not in accordance with the provisions of the Final Act.

If the two parties, *i.e.*, the Municipal Council and the representatives of the Government, had submitted the question to the decision of the Chief Justice under section 4 of Article III, it would, in the opinion of Her Majesty's Government, have been within his competence to adjudicate upon it, and his decision would have been binding upon all parties; but in their judgment, having regard to what had taken place under the Final Act and the system of administration actually in force thereunder, it was not competent to the Chief Justice to make, as he did in this case, a declaration as to the rights of the parties under section 3 of Article VI of the Final Act, upon an informal reference, and without the matter being properly argued before him.

In the opinion of Her Majesty's Government the view taken by the German Government is correct, and assuming the Treaty Powers to be unanimous, they may, under the circumstances, decline to accept the decision of the Chief Justice; but in the event of there being any difference of opinion between them and Samoa, and of the question being referred to the Chief Justice under Section 7 of Article III, his decision, whatever it might be, upon such a reference, would apparently be binding upon all the Powers.

As respects the actual merits of the decision itself, apart from its informality, Her Majesty's Government are advised that the language of Section 3 of the Final Act is ambiguous, and that it would be well that a clear and explicit distribution of the duties, taxes, and charges between the Samoan Government and the Municipality of Apia should be made.

Her Majesty's Government are not without hope that the contending parties may still be able to arrive at a common understanding upon this point which shall be alike satisfactory to themselves and to the Treaty Powers.

I have, &c.
(Signed) SALISBURY.

No. 237.

The Marquis of Salisbury to Count Hatzfeldt.

Sir, *Foreign Office, August* 12, 1892.

WITH reference to my previous note of to-day's date, I have the honour to acknowledge the receipt of your Excellency's note of the 20th ultimo, proposing that the three Treaty Powers should make an identic communication to the President of the Municipal Council of Apia, in the sense of the views expressed by Mr. Consul Cusack-Smith, in his despatch of the 25th May last.

In reply, I have to state that Her Majesty's Government concur generally in Consul Cusack-Smith's recommendations.

They cannot go so far as to say that the Samoan Administration should make it their first duty to protect and advance the interests of the foreign settlers; they think rather that equal and impartial consideration should be given to the interests of both whites and natives alike, but they quite recognize the importance of cordial co-operation between the Chief Justice, the Municipal President, and the Consular Body, and of the adoption by the two former of a more conciliatory attitude towards the foreign Colony.

Her Majesty's Government further agree that the resignation of Baron S. von Pilsach should not be accepted.

I should be glad to learn how your Government propose that the views of the three Treaty Powers should be conveyed to the Chief Justice and Municipal President.

I have, &c.
(Signed) SALISBURY.

No. 238.

The Marquis of Salisbury to Mr. Herbert.

Sir, *Foreign Office, August* 12, 1892.

WITH reference to previous correspondence on the subject of the affairs of Samoa, I transmit to you herewith, for your information, copy of communications with the German Embassy respecting a difference of opinion which has arisen as to the apportionment of the import and export duties in Samoa leviable under Article VI of the Final Act of the Berlin Conference of 1889.*

I have to request that you will communicate these papers to the United States' Government, and inquire whether the views of Her Majesty's Government, as therein explained, meet with their concurrence.

If the Treaty Powers should be unanimously of opinion that they should decline to accept the decision of the Chief Justice, it appears to be desirable that some communication should be made to him to that effect.

In the event of the United States' Government sharing this opinion, Her Majesty's Government would be glad to be favoured with their views as to the most courteous and acceptable method of making such a communication to the Chief Justice, and as to the terms in which it may most appropriately be couched.

I am, &c.

(Signed) SALISBURY.

No. 239.

Count Hatzfeldt to the Marquis of Salisbury.—(Received August 17.)

(Translation.)

My Lord, *German Embassy, London, August* 14, 1892.

AS your Excellency is doubtless aware, the Samoa Treaty provides that land claims put forward by foreigners shall be brought before the Land Commission established at Apia to be examined and eventually registered. It appears from a fee-table issued by the Chief Judge of Samoa, that he contemplates levying a fee of 5 dollars on the registration of each single land title, the proceeds of which fee will go to Dr. Hagberg, a Swedish subject who has been appointed by the Chief Judge to be Registrar, and who is at the same time Clerk to the Court. Some 3,000 land titles will, on a rough estimate, have to be registered. This number would give Dr. Hagberg 15,000 dollars. But such a sum represents a heavy burden on all foreign landed interests, especially on such persons as hold several parcels of land; the latter class would, in certain particular cases, have to pay very considerable sums. The Plantations Company, for instance, has put in 1,198 claims; Harris and MacFarlane, an English firm, 460, &c. If 1,000 and 400 of these claims are respectively recognized as valid, the firms named would have to pay 21,000 and 8,400 marks respectively.

The registration fee will press still more and still more unjustly on the holders of several small parcels of land than on the large land-holders. The want of any proper relation between the value of the land and the amount of the fee is in such cases still more apparent, for in particular cases the fee would exceed 10 per cent. of the value. Plots of ground outside Apia, which are often the only property of their owners, not seldom yield little or nothing beyond the small amount of produce on which the owners live, and they will in many cases be quite unable to pay the heavy fees without mortgaging their land.

According to the view of the Imperial Government, the Chief Judge has no power to impose such a tax on foreigners of his own authority. Article VI, section 2, D. 2 of the Samoa Treaty provides that a tax of $\frac{1}{2}$ per cent. shall be levied "upon deeds of real estate, to be paid before registration thereof can be made." It is to be assumed that with such payment the liability of foreign land-owners on account of registration will terminate. According to Article VI, section 2, further charges beyond the $\frac{1}{2}$ per cent. may not be imposed unless with the concurrence of the Consuls

* See Nos. 223 and 236.

of the three Treaty Powers. Such concurrence has as yet neither been sought nor given, and, in view of the disproportionately high figure of the fee, would hardly be obtained.

The Imperial Government is unable for the present to recognize the fee imposed by the Chief Judge of his own authority on foreign land-owners as binding in law, and is of opinion that this course is not contrary to Article III, section 1, of the Samoa Treaty, which provides that suitable fees may be allowed to the Clerk and to the Marshal of the Court.

The Chief Judge may fix the amount of such fees, but, so long as the Consuls have not concurred in them, such fees may not be a charge on foreign land-owners; they should rather be defrayed by the Samoan Government, who can, in the circumstances supposed, deduct them from the ½ per cent. tax. The Imperial Government proposes to instruct the Consul at Apia in this sense; but before taking further action they would be glad to receive information as to the view taken by Her Britannic Majesty's Government, and as to whether that Government would be prepared to issue similar instructions to their Representative at Apia, in order that foreign settlers in Samoa may be protected by common action against the considerable and unjustifiable injury which would be caused by the measure taken by the Chief Judge to the profit of an official of his own appointing.

Under the instructions which I have received, I have the honour to bring the above to your Excellency's knowledge, and to ask for an expression of the opinion of Her Britannic Majesty's Government on this matter, and also whether your Excellency would be inclined to give to the English Representative at Apia instructions similar to those which the Imperial Government proposes to send to their Consul.

I have, &c.
(Signed) P. HATZFELDT.

No. 240.

*The Earl of Rosebery to Sir L. Malet.**

Sir, *Foreign Office, August* 19, 1892.

I TRANSMIT to you herewith a copy of a letter from Baron Senfft von Pilsach,† inclosing a copy of an Ordinance passed by the Samoan Government to provide for the collection and management of the revenue of customs at the port of Apia.

In forwarding this Ordinance to Her Majesty's Government, Baron Senfft von Pilsach states that it has been drawn up in conformity with the Customs Regulation Ordinance of 1881, enacted in Fiji, a few clauses having been modified to suit local requirements; and he asks that the necessary steps may be taken to render it applicable to British subjects in Samoa.

I have to request your Excellency to ascertain whether the German Government have received a similar application from the Municipal President, and, if so, what action they propose to take with a view to render the provisions of the Ordinance obligatory on German subjects.

I am, &c.
(Signed) ROSEBERY.

No. 241.

Baron Senfft von Pilsach to the Marquis of Salisbury.—(Received August 20.)

My Lord, *Apia, Samoa, June* 18, 1892.

BY communications dated the 29th February, 30th March, 25th April, and 16th instant, I have had the honour to address your Lordship with reference to the Samoan customs duties. The first-mentioned Memoir was written under the impression that, in the Final Act of the Berlin Conference on Samoan Affairs, the revenue

* Also to Mr. Herbert. † No. 232.

accruing from the Customs Department had been apportioned to the Municipality of Apia; it tried to show that this settlement had proved to be unjust and practically unwise. After that Memorandum had been conveyed, but in pursuance of the considerations laid down in the same, I arrived at the conclusion that the fault of the actual arrangement did not arise from the Final Act of Berlin, but from my reading thereof, that is to say, that the Berlin Treaty itself, in distributing the public revenues of Samoa between the Samoan Government and the Municipality of Apia, in section 3, Article VI, had not extended that distribution to the customs duties which thus, under section 2 of the same Article, had been left at the disposal of the Samoan Government. I was confirmed in that opinion through the verbal information of Her Britannic Majesty's Consul here, that the term "taxes," used in section 3, Article VI, could, but did not necessarily, include the customs duties. Such information had the more weight for me, as the English language is not my own.

Being then before the question, what action I had to take in conformity with my new understanding of the matter, I found that I alone was in charge of carrying out the provisions of the Berlin Treaty respecting the distribution of the revenues between the Samoan Government and the Municipality of Apia. Under the Treaty, both these parties are only allowed to order payments upon that part of the revenues being at their disposal in consequence of the distribution; but, for this previous act of the current distribution of the revenues no special office having been created, it is consequently incumbent on the Treasurer.

In managing the distribution, the Treasurer has no other guide than the respective clauses of the Berlin Treaty. He must administer them conscientiously as he understands them. Therefore, in regard to the formal side of my proceeding, I felt at liberty to correct my ledgers forthwith, according to the fact that the total of the Customs revenue had been placed therein to the credit of the Municipality of Apia, whilst it ought to have been placed to the Government's credit. As neither the Samoan Government nor the Municipal Council of Apia were competent to interfere in my distribution, the proper opportunity of acquainting them therewith would have been the Financial Report I have to render quarterly. Then both parties, or either of them, could have attacked my steps before the Supreme Court as soon as they had found that I exceeded my formal authority, or that there was a material injustice to be repaired.

With a view to the fact that the yield of the customs duties had been received by the Municipality of Apia, under my own control for nearly twelve months, and, furthermore, considering the combination in my office of functions to be performed for the Government and for the Municipality, I preferred another proceeding more formal than that I was entitled to adopt. Instead of going on immediately according to my best conviction, I secured first an authentic interpretation of those provisions of the Berlin General Act which are applicable to the subject. That interpretation was given by the Supreme Court on the 28th March last, declaring that, under the Berlin General Act, the Samoan customs duties were to be held for the use of the Government.

By virtue of section 4, Article III, of the Berlin Treaty, this decision placed the matter beyond any legal dispute, and in fact beyond any hesitation on my part. The first step I found myself compelled to take was the withdrawal of my Memorandum, since therein I had requested less for the Samoan Government than the three Signatory Powers as it appeared now had granted already in 1889. Then I used the opportunity of the next meeting of the Municipal Council of Apia, which took place on the 1st April, for acquainting the members with the new arrangement. At the same time I informed them that I had obtained the authorization from King Malietoa to replace provisionally, and from time to time, such amounts to the credit of the Municipality as would be required for its current administration, but that besides I was prepared to explain to the three Treaty Powers that the revenues of the Municipality proved to be insufficient, and that a corresponding alteration of the Berlin Act was needed. As it is known to your Lordship, my respective suggestion has been submitted to the three Governments on the 25th April.

All that I have taken the liberty of setting forth so far seems to be so simple that I believe no official with a little experience in public affairs should have misunderstood my action. Still, according to my opinion, only some such misunderstanding would justify the attitude that the Consular Representatives of Great Britain, the United States, and Germany have assumed in the matter. However, in reporting the facts in question to your Lordship I shall restrict myself to commenting upon them under some general points of view, and refrain from expressing any judgment. Against my

original intention I have concluded to submit to the three Governments this complaint after the Consuls have conjointly and formally declined to afford to me that minimum of assistance that I believe they were obliged to offer without any request on my part.

Before I informed the Municipal Council of Apia of the new arrangements respecting the customs duties, I knew very well that I should find a passionate opposition in that body. Stopping the largest revenue of a community in favour of another party is a step that looks strange on the part of the first officer being in charge of the administration of that community. I think some feeling of that kind would be experienced everywhere, but in not many places would it be as hot as in Apia. Neither in regard to its moral education nor to its political intelligence the population of foreign Settlements in the South Pacific is regarded generally as a select representation of the civilized race. Amongst those settlers and traders there is always too great a fraction of adventurers who have been led to this part of the world by the wish of living and making a fortune without being restricted through the laws of civilization. As regards the residents of Apia, it is true that they enjoy pretty much the circulation of a certain collection of political notions. Only, instead of possessing the control of them, it appears that these notions themselves overrule the understanding of those who, in their own opinion, dispose of them. As an instance, these good people will never admit that the dollar, when being received by the tax-collector, ceases to belong to the tax-payer; at least, they look upon any lawful disposition of the public funds, being not in conformity with their ideas, in a similar way as on a thievish grasp into their pockets. This refers to the citizens of the Municipality generally, and of course with exceptions; but the membership of the Municipal Council being open to any conductor of a business whose annual tax amounts to 5 dollars, it cannot be expected that always three exceptions will be elected for that body, and hence I do not wonder when the majority is not composed of such exceptions. Respecting the particular case of my transferring the Customs Department to the Government, I was the more prepared for a violent resistance from the majority of the Council, as, by several former occasions, they had shown a very narrow-minded jealousy towards the Government, and a perfect absence of understanding of the connection existing between their own interests and the general situation of this country.

In order to manage the transaction being before me with as little trouble as possible, I tried to obtain the moral support of the Consuls. I acquainted them at first verbally and severally with the respective decision of the Court, and with my intentions. The United States' Consul-General, Mr. Sewall, stated, with reference to the form of my proceeding, that in my place he would have preferred to obtain a decision from the Signatory Powers. Materially, he agreed with my opinion after a full deliberation on the subject. Her Britannic Majesty's Consul said he would await my written communication. Meanwhile, he found that the step I was going to take was a terrible one, but he did not deny what he had told me before, that, at first, the Consuls themselves understood the respective part of the Berlin Act as I read it now. The Imperial German Consul, M. Biermann, replied to my information that he could not join in my interpretation. In regard to my proceeding, he recommended that the Municipal Council should be informed before the Court's decision would be issued. Still he recognized the fact that the Court as well as I acted fully within our legal authority, and therefore he declared his willingness to support my action at all events.

Consul-General Sewall left Samoa on the 31st March. One of his last words when we parted was that the longer he had considered my action in the Customs question, the stronger he was in favour of it.

The effect of my notification to the Municipal Council on the 1st April was neither more nor less extraordinary than I had expected. My endeavours to deliberate with the Council immediately on the question as to what course should be taken towards a completion of the revenue of the Municipality were frustrated through continual interruptions and personal insults, which, after some time, induced me to close the meeting. There being some people who had attended the meeting—the Council's meetings being public as a rule—they joined at once the members of the Council, and two gentlemen requested me, on behalf of those being present, to deliver to them the keys of the public safes. When I refused to do so they asked me if I would hand over the keys to the Consuls. I said, No; having been appointed the only custodian of the public funds, I should not deliver the keys but on a joint instruction of the three Governments. Should people think there was a complaint founded on account of my public measures, they could lodge such complaint with their respective Consuls, who then would either submit it to their Governments or not.

I have neither spoken nor even thought a moment of any combined action in the matter on the part of the Consuls.

Some hours later I received an invitation, signed by the members of the Council, to attend a public meeting which took place in the afternoon. This was another thing I had expected before, and I answered immediately that I should not go there.

On the following day the three Consuls visited me on the subject. M. Biermann explained that, for the purpose of rendering harmless the public meeting, the Councillors had been informed, on behalf of the Consuls, that the latter were ready to see them in the evening at the German Consulate. There all of them had met, and, finally, it had been agreed that the question as to what party had to claim the customs duties should be left out of any discussion until the Signatory Powers should have decided the same. Meanwhile, a certain amount of the public funds should be set aside in order to meet the current requirements of the Government, as well as of the Municipality of Apia.

I replied in asking whether or not the Consuls met me in fulfilment of an engagement towards the members of the Municipal Council. M. Biermann answered, the Consuls acted in the interest of peace and order. They did not accept any instructions from the members of the Council, but had caused those members to abide by the proposal of the Consuls.

I expressed the opinion that the Consuls would be better enabled to act in the case after having received the written communication especially of the Court's decision, which I had promised to send them, but had not yet sent, on account of the illness of my Secretary. I suggested to tell the Councillors that the Consuls were awaiting at first my material.

The United States' Vice-Consul, Mr. Blacklock, answered, the actual difficulty was just how to come quietly through the first days.

I said I could not see a serious danger; but Mr. Blacklock replied, the situation was as serious as it had ever been yet in Apia.

I then entered into the proposal of M. Biermann in stating that indeed the question, what party had to claim the customs duties, ought to be left out of any discussion on the ground that it had been decided on the 28th March by the Supreme Court. In regard to the existing Treaty, the interpretation of the Court was final. As the Powers were at liberty to alter that Treaty, I was in favour of avoiding all unnecessary expenses at present; but I could by no means accept an arrangement that would bind the Government as well as the Municipal Council, because I felt obliged to proceed on behalf of both parties according to the decision of the Court, which I could never treat as not existing. Mr. Cusack-Smith observed, formerly the Chief Justice had expressed the opinion that the duties belonged to the Municipality of Apia. Hence there existed now two decisions which contradicted one another. I said, "Perhaps the Chief Justice had been of such opinion at some time, but he had never dealt with the question as a Court, and altogether not officially." Mr. Cusack-Smith replied, he could not recognize any difference between a private opinion of the Chief Justice and a decision of the Supreme Court.

In the course of the conference it was intimated also on the part of the Consuls that the excitement of the Apia people could affect the political situation in Samoa considerably, as some dissatisfied merchants would perhaps induce Mataafa to fight against Malietoa. I think I may quote this only, and refrain from any comment.

In the same manner I beg leave to mention that Her Britannic Majesty's Consul inquired from me who had appeared before the Court for the defendant, namely, the Municipality, when I applied for the decision on behalf of the plaintiff, namely, the Government. I answered in asking him if Mr. Cusack-Smith did not recollect that, besides the jurisdiction in civil and in criminal cases, also a political and administrative jurisdiction had been vested in the Supreme Court, and when Mr. Cusack-Smith replied he did not, I had the honour to draw his attention to section 4, and to section 9, Article III, of the Berlin Treaty. But Mr. Cusack-Smith assured me he could not see any difference between those jurisdictions.

The interview lasted two hours, but no agreement was arrived at. I took the liberty of pointing out repeatedly, if the Consuls would exert themselves in the interests of peace and good order, I thought there was no better way of doing so than in their rendering their moral assistance to the authorities created by their Governments against any attempt of obstructing them in their lawful proceedings. Particularly in regard to the Supreme Court I declared that if the Representatives of the same Governments who had established that Court as a final instance for Samoa

felt allowed to support people in disobeying or ignoring a decision of that Court, I declined to share their responsibility.

I further stated that I had notified to the Council already the day before my intention of holding another meeting after a few days, and that no important alteration would take place before.

Immediately after their conference with me, the Consuls addressed a letter "to the members of the Municipal Council of Apia," communicating to them the result of our meeting. The contents of the communication were quite correct.

This letter was the last of the public steps the Consuls have taken in the matter, as intermediators between the members of the Municipal Council and the President. I wish to state that, before acting on that line, they had not asked me privately or officially whether or not I would accept any intermediators. On the contrary, after a previous private remark of M. Biermann on the 1st April, saying that perhaps the Consuls would negotiate between the Councillors and myself, I had stated at once that I did not see any obstacle to meeting the Councillors myself, and that I intended to do so shortly. Therefore I have been unable to find out by what authority the Consular Representatives have interfered in the case. According to the Berlin Treaty, the Municipal Council does not consist of six members, but of six members and the President. Without the latter, or if he is absent from his functions, without a Chairman the members do not constitute a legal body, and hence no space is left to third parties for negotiations between the members and the President. By ignoring this circumstance and acting as they did, the Consuls apparently acknowledged the situation to be an extraordinary one, and thus in fact encouraged the opposition. Stepping forthwith between the members of the Council and myself they confirmed evidently that natural, but nevertheless quite unfounded, feeling of all those people who were unable to control the rightfulness of what I had done; that something dangerous was going on and that some flagrant injustice was to be prevented; whilst by explaining to their clients the material and formal sides of the matter, and drawing their attention to the flagrant injustice of the Government having been deprived of the customs duties nearly two years, the Consuls would have strengthened the legal authorities, and facilitated my task considerably. Perhaps such support could not be claimed from them as they had not adopted my points of view on the subject; but then I fail to see why they did not abstain from any public action, and restricted themselves to reporting to their Governments, and awaiting their instructions. Bearing in mind this situation, one cannot avoid the impression that the Consuls on their own behalf were anxious to save the State, which however was in danger only in their imagination, but really perhaps nearer to attaining a sound foundation of existence than at any time before. Even if some people at Apia would have undertaken the attempt of enforcing the possession of the public funds, probably the Government would have gained instead of losing. For notwithstanding their being too weak for overcoming Mataafa without a war, they are strong enough for arresting a handful of foreigners who break the law and the peace.

Nevertheless, as I have had the honour to state already, I have not had the intention to submit these experiences to the knowledge of the three Governments, because the intervention of the Consuls between the Council's members and myself had not affected the result of my action. I have only arrived at the contrary conclusion after the three Consuls, sitting conjointly as a Consular Board, had informed me, on the 25th May last, that they declined at the time to deal with a Resolution passed by the majority of the Municipal Council on the 6th April, by which the Council formally protested against any change in the administration of the Municipality of Apia as carried on since May 1891. I beg leave to inclose a copy of that Resolution, and of the correspondence relating thereto between the Consular Board and myself.

In my view, the question being before the Consular Board is not complicated enough for justifying the delay they claimed for their consideration on the 5th May. But your Lordship will see that they have felt unable to issue their decision even on the 25th May, and to this day I have not obtained the same.

The Berlin Treaty, by virtue of which they and I are working here, says, Article III, section 4, that the decision of the Supreme Court on questions arising under the provisions of the General Act shall be conclusive upon all residents of Samoa. Yet the Consular Board declare that they cannot, or will not, yet disapprove of a Resolution which plainly denies the binding effect of such decision. I most respectfully ask for permission to draw your Lordship's attention to the difficult condition my administration is placed in, when depending upon a machinery which, in a serious case like this, refuses to work. Since the Conference at Berlin did surely not expect

such eventualities, the General Act contains no provision as to the space of time within which the Consular Board shall return the Council's Resolution, with their decision. I concluded therefrom that simple and important matters should be settled without delay, and complicated ones within a longer term; but this practice not having been adopted by the Consular Board, some fixation of limits for their deliberation appears to be indispensable, if not, the administration of this small community will be exposed to an uncontrollable obstruction.

Immediately after the meeting of the 1st April one member of the Municipal Council explained to me that the residents of Apia were quite unanimously determined not to assent to any measure supporting the Samoan Government, for the sooner it would be destroyed the better. There would be no help for Samoa except through an annexation by one of the Treaty Powers. I replied that question had been settled by the Treaty which he and I were bound to carry out, whereon he remarked "That was all right, but it would not do." There the real reason of the indignation appeared behind the emphatic declamations of violated justice; the intentional opposition against any measure adapted to strengthen the actual settlement of the Samoan affairs. Such are the views of those people whom the Representatives of the Treaty Powers have felt called upon to represent towards the only legal representative of the Council.

In trying to penetrate the spirit of the Berlin Treaty, which, as is said expressly, shall guide the holder of my office, I have started from the opinion that the work of the Berlin Conference has never been destined to create an ideal state of affairs in Samoa, but that it only constitutes the best arrangement that could be attained in face of the existing circumstances. Therefore, if the experience shows that some of those provisions require an alteration, it does not follow that the Berlin General Act is altogether unworkable. Only one condition seems to be indispensable for its success —the serious intention of executing the Treaty as a whole, and every provision of the same, on the part of all authorities being concerned. There are at present not only Samoans who question the existence of that intention. When I read section 4, Article III, of the General Act to the Consuls, on the 2nd April, Mr. Cusack-Smith remarked that the three Governments had already cancelled decisions of the Chief Justice. It has also been one of the Consuls who, in answering to me, expressed the opinion that the wording of the Treaty would justify what I had stated, but he did not believe that all provisions of that Treaty were intended to be carried out as they were to be read. In recollecting that two gentlemen have been sent out here on behalf of the Signatory Powers for the only purpose of applying themselves to the realization of the Berlin Treaty, and that neither of them has been informed before or after his departure that they ought not to understand that Treaty as seriously meant in every respect, I find that such opinion implies a charge against the Governments that I must abstain from nominating. But irrespectively thereof, I hardly need to say that, such opinion being promulgated, there does not exist any instance for determining what part of the Treaty must be obeyed, and what part not. The immediate consequence would be that the public institutions established at the Berlin Conference would lose their foundation, and thus it seems to me that distinguishing between valid and invalid parts of the General Act would mean, in fact, relinquishing the whole.

When, one year ago, Mataafa had established his separate Government at Malié, the question was before the Signatory Powers whether or not they would afford some armed assistance to that King who had been put on the throne by them. The question has been answered in the negative. Even their war-ships lying in the Apia Harbour were not allowed to support Malietoa by some demonstrative action. Already, then, I had had the honour of declaring that, in such eventuality, I should decline any responsibility of the development of the Samoan affairs, because the Samoans would never respect the will of the Treaty Powers if, in a case like Mataafa's, they did not see any intervention of the Powers in favour of their own arrangement. The present situation within the administration of Apia is an analogous one, because the elected representatives of that district, being subjects of the Signatory Powers, are allowed by the Representatives of those Powers to defy the authority of myself as well as of the Supreme Court. In this case no men-of-war are required for curing the evil, but perhaps instructions to be dispatched to the three Consuls, and a corresponding joint instruction for the President of the Council, to be read by him in a meeting of that body, would have a sufficient effect.

As regards Her Britannic Majesty's Consul and the United States' Vice-Consul-General, I have reasons to believe that they have not only participated in the steps I have spoken of above, but have interfered directly in the execution of a Resolution passed by the Municipal Council on the 6th April, and saying that a statement should

be framed for the Council by two lawyers, and addressed to the three Treaty Powers, furnishing them with the views of the Council on my administration, and particularly on the settlement concerning the customs duties. Since, also, in this instance, my correspondence with the lawyers, the Consular Board, and the Supreme Court contains the complete material, I beg leave to abstain from reporting the case, and to forward to your Lordship a copy of that correspondence. It discloses in a very conspicuous manner the real extent of my power; it further shows how readily and almost mechanically people refer to the Consular Representatives if they are disposed to disregard my authority; and, finally, it represents a select illustration of the consistency that leads the majorities of the Municipal Council, as well as of the Consular Board, in their resolutions.

I have, &c.
(Signed) FRHR. SENFFT VON PILSACH.

P.S.—Copies of this despatch will be forwarded to the three Consuls without delay, so that if they wish to answer to my statements they might be able to do so by next mail.

F. S. v. P.

Inclosure 1 in No. 241.

Extract from Minutes of the Municipal Council of Apia.—Meeting of April 6, 1892.

4. PROPOSED by Mr. Moors, seconded by Mr. Edwards, to resolve as follows, viz.: "The Municipal Council herewith protests against any change in the administration as carried on since May 1891, up to the 28th March, 1892."

Carried by 4 against 1 vote, the President and Mr. Haidlen abstaining from voting.

Inclosure 2 in No. 241.

The Consular Board, Apia, to the Members of the Municipal Council of Apia.

(Extract.) *Apia, Samoa, May 5, 1892.*

"RESOLUTION No. 4 was noted."

Inclosure 3 in No. 241.

Baron Senfft von Pilsach to the Consular Board, Apia.

Gentlemen, *Apia, May 14, 1892.*

WITH reference to the Resolution of the Apia Municipal Council passed on the 6th April last, viz., to protest against any change in the administration of the municipal district as carried on since May 1891, it is said in your letter dated the 5th instant that you had "noted" the same.

In recollecting that according to the Berlin Treaty you "shall either approve and return" the Council's Resolutions, "or suggest such amendments as may be unanimously deemed necessary by" you, I do not believe that as long as the Powers are bound by that Treaty their Representatives are at liberty to take such a standpoint as you have assumed towards the above-mentioned protest Resolution.

Your Governments have inflicted the duty upon their Consuls to deliberate on the Resolutions of the Municipal Council, and to furnish that body with some result of such deliberation.

There has never been a misunderstanding that the protest in question demanded me to ignore the decision of the Supreme Court issued on the 28th March concerning the proceeds of the customs duties. Consequently, under the existing circumstances, this protest constituted a public act of defying that institution, which undoubtedly has been created by your Governments as the very foundation of the whole agreement they had arrived at in 1889.

There exists no uncertainty for me that I shall use every legal means for preventing that a doubt might arise at any later time whether or not such act has become formally valid. But before taking any further step I deem it indispensable to

submit to your consideration the question if you will finally refrain from deliberating on the subject and notifying to the Council your conviction.

I hardly need to add that your first communication as quoted above must be understood generally as being in favour of the protest which had been passed by four members of the Municipal Council.

I have, &c.
(Signed) FRHR. SENFFT VON PILSACH,
President of the Municipal Council.

Inclosure 4 in No. 241.

The Consular Board, Apia, to Baron Senfft von Pilsach.

Sir, *Apia, Samoa, May* 25, 1892.

WITH regard to the Resolution mentioned in your letter of the 14th May, 1892, to the Consular Board, we have the honour to inform you that by noting the said Resolution we have neither approved nor disapproved it, and still reserve our decision.

We cannot agree with your inference that by noting the Resolution "it must be generally understood that we are in favour of the protest."

We have, &c.
(Signed) T. B. CUSACK-SMITH, *Her Britannic Majesty's Consul.*
BIERMANN, *Imperial German Consul.*
W. BLACKLOCK, *Vice-Consul-General, United States of America.*

Inclosure 5 in No. 241.

Baron Senfft von Pilsach to Messrs. Cooper and Carruthers.

Gentlemen, *Apia, May* 10, 1892.

I BEG to inform you that in a meeting of the Apia Municipal Council, held on the 6th instant, one member mentioned that he understood the Memoir which, on the 6th April, the Council resolved to submit to the three Treaty Powers with respect to the customs duties had been framed by you and forwarded to the respective Governments by the mail-steamer that left Apia on the 28th April. It was then stated that this Memoir had neither been before the Council nor before the single members.

I shall be thankful for an information from your part whether or not such has been the case, and, if so, when and by whom you had been requested to frame and to convey the above-mentioned Memoir.

I have, &c.
(Signed) FRHR. SENFFT VON PILSACH.

Inclosure 6 in No. 241.

Baron Senfft von Pilsach to Messrs. Cooper and Carruthers.

Gentlemen, *Apia, May* 10, 1892.

I HAVE the honour to request you—owing to a Resolution passed by the Municipal Council on the 6th instant—to furnish them with a copy of the statement concerning the administration of the customs duties which it is understood you have framed for the Council.

I have, &c.
(Signed) FRHR. SENFFT VON PILSACH.

Inclosure 7 in No. 241.

Baron Senfft von Pilsach to Messrs. Cooper and Carruthers.

Gentlemen, *Apia, May* 16, 1892.

I HAVE the honour to ask for an immediate reply to the questions I have laid before you in writing on the 10th instant.

I have, &c.

(Signed) FRHR. SENFFT VON PILSACH.

Inclosure 8 in No. 241.

Messrs. Cooper and Carruthers to Baron Senfft von Pilsach.

Sir, *Apia, May* 16, 1892.

WE have the honour to acknowledge receipt of your letter of this day's date and of your previous letters of the 10th instant. In reply to your letter of the 10th instant in which you inform us of the remarks made by a member of the Council with reference to the preparation of the statement on behalf of the Council respecting the transfer of the customs, it does not appear from its contents that any Resolution was passed by the Council requesting or instructing you to make the inquiry contained in your letter. Even if such a Resolution had been passed, we submit, with deference to yourself and the Council, that it is not a matter within the province of the Council to inquire, and your question is not one which it should be our duty to answer to any further extent than the following remarks disclose.

We would remind the Council and yourself that we were both present at the meeting of the Council when the Resolution authorizing us to act in the matter was passed.

We would also state, for the information of the Council and yourself, that before preparing the statement we had received what was, in our opinion, a sufficient notification of the approval of the Consular Board of the Resolution passed by the Council.

We were not instructed to submit our statement to the Council before sending it forward for transmission to the Treaty Powers.

We acted strictly within the scope of our authority as solicitors acting on behalf of, and in the best interests of, our clients. Our first and our only duty was to the Council, and it was essential to the welfare of the Council that the statement should be prepared at once for transmission by the first outgoing mail. This we understood to be the unanimous wish of the Council.

It is evident that had we delayed until we received formal instructions from you, the action desired by the Council would have been rendered abortive, for up to the present time you have not considered it necessary to send us any formal instructions upon the subject.

In reply to your second letter of the 10th instant, asking us for a copy of the statement prepared by us, we would point out that while you, in effect, complain of our acting irregularly in preparing the statement before we received official instructions after the approval of the Consular Board was formally notified, you have yourself acted in an irregular manner by giving us instructions based upon a Resolution of the Council which had not received the Consular Board's approval, and we wait a further communication in the matter.

We have, &c.

(Signed) RICHD. HETHERINGTON CARRUTHERS.
WM. COOPER.

Inclosure 9 in No. 241.

Baron Senfft von Pilsach to the Supreme Court of Samoa.

Apia, May 23, 1892.

ON the 6th April last the Municipal Council of Apia passed the following Resolution:—

"To appropriate the sum of 200 dollars (United States' currency) for the purpose

of presenting a proper statement of the present situation of the Apia Municipality with respect to the Samoan Government and its officials, and also with regard to the circumstances which have led up to the present situation, and to appoint Messrs. Cooper and Carruthers to draw up the case for the Municipality."

On the 6th instant the Municipal Council received a communication from the Consular Board containing their approval of the foregoing Resolution.

In speaking to the question how to execute the same, one member stated that it had been executed already by Messrs. Cooper and Carruthers, and that the respective statement had been forwarded on the 28th April to the Governments of the three Treaty Powers. The Council then resolved that Messrs. Cooper and Carruthers be directed to furnish the Council with a copy of their statement. On the 10th instant I requested them to do so, but on the 16th instant they informed me they would not deliver such a copy unless the Consular Board joined in the respective Resolution of the Municipal Council.

I claim that already, after the first Resolution of the Council had been approved by the Consular Board, I was in charge to secure its execution in a proper way, and, consequently, to take steps for acquainting the Council with the statement that had been made on their behalf.

I therefore wish to take a civil proceeding against Messrs. Cooper and Carruthers for the purpose of obtaining a copy of the statement in question, and I most respectfully apply hereby to your honourable Court for a summons to be issued to that effect at the expense of the defendants. At the same time I beg to inclose a copy of my correspondence with them.

(Signed) FRHR. SENFFT VON PILSACH.

Inclosure 10 in No. 241.

Baron Senfft von Pilsach to the Supreme Court of Samoa

Apia, June 1, 1892.

IN pursuance of my application for a summons against Messrs. Cooper and Carruthers, dated the 23rd May last, I beg leave to acquaint your honourable Court that the Municipal Council of Apia have to-day rescinded their Resolution passed on the 6th May demanding from Messrs. Cooper and Carruthers a copy of their statement concerning the customs duties, and have resolved to dispense with such copy. Therefore, I hereby withdraw the aforesaid application, and ask your honourable Court most respectfully to give notice thereof to the defendants.

(Signed) FRHR. SENFFT VON PILSACH.

Inclosure 11 in No. 241.

Baron Senfft von Pilsach to the Consular Board, Apia.

(Extract.) *Apia, May* 12, 1892.

YOUR letter dated the 5th instant contained your approval of the Council's Resolution passed on the 6th April, concerning a statement relating to the administration of the customs duties, to be laid before the three Treaty Powers.

When the Council had been acquainted with your approval, and the question was before them how to excute that Resolution, then one member reported the statement in question had been drawn up already, and conveyed by the last mail to America and Europe.

The member had understood that either the Consular Representatives or Her Britannic Majesty's Consul had instructed Messrs. Cooper and Carruthers to do so. I have the honour to request an information of the Consular Board whether or not they have induced their members, or a part of them, to confer with Messrs. Cooper and Carruthers upon carrying out the aforesaid Resolution of the Municipal Council.

Inclosure 12 in No. 241.

The Consular Board, Apia, to Baron Senfft von Pilsach.

Sir, *Apia, Samoa, May* 25, 1892.

WITH regard to your request for an information of the Consular Board whether they have induced their members, or a part of them, to confer with Messrs. Cooper and Carruthers upon carrying out the aforesaid Resolution of the Municipal Council, we do not feel called upon to make any reply, as your question must be understood as charging the Consular Board with having overstepped its rights.

We have, &c.

(Signed) T. B. CUSACK-SMITH, *Her Britannic Majesty's Consul.*
BIERMANN, *Imperial German Consul.*
W. BLACKLOCK, *Vice-Consul-General, United States of America.*

Inclosure 13 in No. 241.

Baron Senfft von Pilsach to the Consular Board, Apia.

(Extract.) *Apia, May* 27, 1892.

AT the same time I beg to acknowledge receipt of two letters from the Consular Board, dated the 25th May, one respecting the protest put forward by the Municipal Council on the 6th April, the other referring to Messrs. Cooper and Carruthers' report on the same subject. In reply to the latter, I have to inform you that on Monday, the 9th May, I asked Mr. Cooper who had instructed him and Mr. Carruthers to draw up and to forward the aforesaid report to the Treaty Powers, and that Mr. Cooper verbally replied, "The British and the United States' Consuls."

When I asked the Consular Board for information as to whether or not they had requested one or more of their members to confer with Messrs. Cooper and Carruthers upon the matter in question, I did so only for the purpose of ascertaining if it was the Consular Board, or only the British and the United States' Consuls, about whom I had to complain to their respective Governments, charging them with having interfered in my executive rights and duties. After having received your above-mentioned letter, I am glad to state that the Consular Board unanimously coincide with my views on the subject in saying that my question was to be understood as charging the Consular Board with overstepping the limits of their rights. Such unanimous opinion of the Consular Board will constitute a valuable support to the complaint that in this particular matter I shall submit only to Her Britannic Majesty's and to the United States' Governments about the conduct of their Consular Representatives.

Inclosure 14 in No. 241.

The Consular Board, Apia, to Baron Senfft von Pilsach.

Sir, *Apia, Samoa, June* 8, 1892.

WE have the honour to acknowledge receipt of your communication of the 27th May, with inclosures.

We have, &c.

(Signed) T. B. CUSACK-SMITH, *Her Britannic Majesty's Consul.*
BIERMANN, *Imperial German Consul.*
W. BLACKLOCK, *Vice-Consul-General, United States of America.*

No. 242.

Baron Senfft von Pilsach to the Marquis of Salisbury.—(Received August 20.)

My Lord, *Apia, July 14, 1892.*

I HAVE the honour to transmit to your Lordship a letter, dated the 18th June last, which I was going to dispatch by the last mail, but retained then, the copy addressed to the Imperial German Government not being ready in time.

By letter dated the 1st instant, I have furnished the three Consular Representatives with the respective copies. In reply, Her Britannic Majesty's Consul has informed me that he could not admit that my statement did set forth the facts accurately.

With reference thereto, I beg leave to say that I maintain the assertions of my letter to their full extent.

At the same time, I regret that I must report a new case to the three Governments in which the Consular Board has disregarded the provisions of the Berlin Treaty.

There exists a difference of opinion between that body and the majority of the Municipal Council of Apia, including myself, in regard to the appointment of the returning officers for municipal elections. If the Consular Board desired this difference to be settled, such settlement fell apparently into the exclusive jurisdiction of either the Chief Justice or the Supreme Court of Samoa.

In a letter to the Municipal Council, dated the 9th instant, the Consular Board stated that Mr. Blacklock had informed the Board of the aforesaid question having been referred by him to the United States' Government.

Instead of reminding Mr. Blacklock that in the Berlin Treaty the Signatory Powers have bound each other to refrain from any separate control on Samoan affairs, and have established a special Court for the purpose of meeting all requirements of administrative jurisdiction on the spot, Mr. Blacklock's colleagues have joined in his oversight, by resolving and signing the above-mentioned notification to the Municipal Council.

I have, &c.

(Signed) FRHR. SENFFT VON PILSACH.

No. 243.

Baron Senfft von Pilsach to the Marquis of Salisbury.—(Received August 20.)

My Lord, *Apia, July 16, 1892.*

THE Final Act of the Berlin Conference on Samoan Affairs provides in Article V that the President of the Municipal Council of Apia may act under the joint instruction of the three Signatory Powers. In availing myself of this clause I have the honour to submit a question to your Lordship regarding the administration of the Treasury, and to ask most respectfully for a joint note of the three Governments conveying to me their common views in the matter.

According to another prescription of the above-quoted Article, I render quarterly reports of my receipts and disbursements to the King and to the Municipal Council of Apia.

On the 11th March last the Municipal Council appointed two Auditors for the audit of my accounts from the 15th May to the 31st December, 1891. In April their appointment was extended to the audit of the quarter ending on the 31st March, 1892.

Before commencing their work one of those gentlemen asked me whether or not their appointment comprised also the task of checking the cash. I replied, it could not, because I kept separate books for the account of the Municipality and for that of the Government, but there existed only one Treasury according to the respective provisions of the Berlin Treaty, and consequently, the cash being in that Treasury would always surpass the balance of the Municipal as well as the balance of the Government accounts. I concluded, since both the gentlemen had been appointed only by and for the Municipal Council of Apia, they could not audit the Government's accounts, and therefore it was impracticable for them to count the cash. I compared my position towards the Government and the Municipal Council with that of a banker towards his customers, and said that also the latter did not control the cash of the banker.

In their report to the Council the Auditors stated that they had not been allowed

to count the cash. After having read the report I explained my views on the subject to the Council. To those above quoted I added that personally I had no objection whatever against a common audit of my accounts on behalf of the Government and of the Municipal Council, including the control of the money; still, considering that the Berlin General Act did not mention anything as to the questions if altogether, and by whom, and how often such common audit should be performed, I was not sure whether the Conference had intended to place the Treasurer under that ordinary control, or to restrict such control to the investigation if his receipts and disbursements were in accordance with the provisions of the Treaty and with the orders of the Samoan Government and of the Municipal Council of Apia; also, if his books, his accounts, and his vouchers were in conformity. I said I was the more doubtful in this respect as, owing to many peculiar circumstances which were to be met in the settlement of the Samoan affairs, several singular institutions had been created by the Berlin Conference which it was impossible to interpret according to the rules adopted in civilized countries by Constitutional Governments. Amongst such institutions the whole construction of my office was an extraordinary one, quite heterogeneous functions being combined in the same. Just, therefore, the Berlin Act contained certain provisions adapted to the purpose of securing the selection of a conscientious person for my office. I admitted that in stating this I claimed some extraordinary confidence, but at the same time I pointed out that, irrespective of such confidence, there was no question of a material danger for the public funds, for neither I nor any holder of my office would likely intend to remain here the whole of his life, and thus he would always bear in mind that sooner or later he had to hand over the Treasury to his successor.

After having set forth these views I asked if the members of the Council believed that there should be a periodical control of the cash being in the Treasury.

The members stated that they were unanimous in such opinion.

I replied that I should then ask the Governments of the three Treaty Powers for a joint instruction in the matter. The subject being of a somewhat delicate nature, I did not wish to raise any conflict on the same; but, on the other hand, as first holder of my office, I was anxious to keep clear its lines as they were laid down in the Berlin Treaty.

The members, in taking notice of my declaration, expressed their willingness to abstain from any steps on their part at present.

The foregoing report contains the explication of my doubts in the matter, which I shall be thankful to be relieved from by the three Governments.

I beg leave to add a few remarks:—

1. I have concluded that I ought to refer this question to the Signatory Powers, and not to the Supreme Court of Samoa, because it is not a question of right, but of usefulness.

2. Should the Governments wish the present system of one Treasury with two book-keepings to be continued, subject, however, to a periodical control of the cash, it would be necessary to appoint the Auditors at the same time for the Samoan Government and for the Municipality of Apia. Hence, I suppose that the Chief Justice would be the only competent authority for the performance of such nomination.

3. If I am directed to separate the funds which, under Article VI, section 3, of the Berlin Treaty, I "hold for the use of the Municipal Council of Apia" from those being "for the use of the Samoan Government," such arrangement can be easily made. There will be only a little increase of expenditure owing to the appointment of an Assistant Accountant for the Municipality. Then the cash being on hand for the use of the Municipal Council could be checked at any time by Auditors of the Council.

4. There can be no question of vesting such control in the Municipal Council of Apia, but retaining the same in regard to the Samoan Government. If the Samoan affairs shall develop on a sound basis, the rule must be maintained by every opportunity; that the community of Apia, being an independent commonwealth within the boundaries of a State that only begins to exist, can claim in no respect more, but in many respects less, of right than the Government of the country.

5. The power of appointing Auditors for the Government being left to the King or to the Faipule, the holder of my office would be exposed to the chance of being controlled and annoyed by any adventurer. Also, in this case, I believe the Chief Justice ought to nominate the Auditors.

6. As stated above, I do not see any practical necessity for introducing a control of the cash besides my own. I understand that the members of the Apia Municipal

Council are in favour of the introduction, because, naturally, the foreign residents of Apia stick at the claim of exercising the same rights in Samoa as they would possess in their respective home countries. As far as I am aware, in the history of the South Sea Islands nearly every progress is connected with a defeat of that claim.

I have, &c.
(Signed) FRHR. SENFFT VON PILSACH.

No. 244.

The Earl of Rosebery to Count Hatzfeldt.

M. l'Ambassadeur, *Foreign Office, August* 27, 1892.

I HAVE the honour to acknowledge the receipt of your Excellency's note of the 14th instant, explaining the objections entertained by the German Government to the fee of 5 dollars imposed by the Chief Justice of Samoa on the registration of all land titles.

At first sight I am disposed to concur in the views of your Government, but before returning a definitive answer I should wish to consult the Law Advisers of the Crown upon the points of law which are necessarily involved.

Upon receipt of their Report, I will lose no time in communicating to you the decision of Her Majesty's Government.

I have, &c.
(Signed) ROSEBERY.

No. 245.

Mr. Herbert to the Marquis of Salisbury.—(*Received August* 29.)

My Lord, *Newport, Rhode Island, August* 17, 1892.

WITH reference to Sir Julian Pauncefote's despatch of the 26th March last, I have the honour to inclose copy of a note which I have received from the Acting Secretary of State, in which he states that the United States' Government would be glad to learn the views of Her Majesty's Government in regard to the Order recently issued by Baron Pilsach, in Samoa, respecting the currency question, which Order, in Mr. Adee's opinion, does not accord with the understanding arrived at by the three Governments.

I have, &c.
(Signed) MICHAEL H. HERBERT.

Inclosure in No. 245.

Mr. Foster to Mr. Herbert.

Sir, *Department of State, Washington, August* 15, 1892.

I HAVE the honour to apprise you of the receipt of despatch from the American Vice-Consul at Apia, dated the 19th July, accompanied by the following Notice that appeared in the "Samoan Times" of the 16th ultimo:—

"*Notice.*

"During the months of August, September, and October ensuing, I shall continue to adopt for my receipts and disbursements the present rate of exchange, viz., the English pound sterling; and the 20-mark gold piece as equal to 5 dollars United States' currency.

(Signed) "FRHR. SENFFT VON PILSACH, *Treasurer.*

"*Apia, July* 14, 1892."

I have said to the Chargé d'Affaires of Germany in Washington that the published notification of Baron von Pilsach does not accord with the understanding reached, as stated in the Department's note to Sir J. Pauncefote of the 24th March, 1892, that the 20-mark gold piece was to be received as the equivalent of 4 dol. 76 c.; and that it was not doubted that the German Government would cause the Order of Baron Pilsach to be rescinded, and the Agreement of the 24th March last to be carried out.

I shall be glad to learn what, if any, action has been taken by Her Britannic Majesty's Government in this matter.

I have, &c.
(Signed) ALVEY A. ADEE, *Acting Secretary.*

No. 246.

*The Earl of Rosebery to Sir E. Malet.**

Sir, *Foreign Office, August* 30, 1892.

I TRANSMIT to your Excellency herewith an extract from a letter from Baron S. von Pilsach, the Municipal President at Apia,† respecting a difference of opinion which has arisen between the Consular Body and the majority of the Municipal Council, including the President, in regard to the appointment of the Returning Officers for Municipal elections.

Baron von Pilsach maintains that under Article V, section 3, of the Samoan Act the question should be referred for decision to the Chief Justice and not to the Treaty Powers.

Her Majesty's Government are disposed to think that the Municipal President is, in this instance, correct in his interpretation of the Act.

I should wish you to inquire whether Baron S. von Pilsach has addressed a similar communication to the German Government, and, if so, whether they agree with the view taken by Her Majesty's Government, and will instruct their Consul at Apia accordingly.

I am, &c.
(Signed) ROSEBERY.

No. 247.

Sir E. Malet to the Earl of Rosebery.—(Received September 1.)

My Lord, *Berlin, August* 30, 1892.

I HAVE the honour to inform your Lordship that the "Reichs Anzeiger" of yesterday evening published a telegram from Washington, dated the 27th August, announcing that the German, English, and American Governments have now severally empowered their Consuls in Samoa to request the assistance of the ships of war stationed in those waters to enable the Supreme Court in Apia to enforce the execution of its warrants, on the understanding that the rendering of such assistance shall not lead to any warlike action.

I have, &c.
(In the absence of Sir E. Malet),
(Signed) P. LE POER TRENCH.

No. 248.

The Earl of Rosebery to Sir E. Malet.

Sir, *Foreign Office, September* 2, 1892.

FROM the inclosed copy of a despatch from Her Majesty's Chargé d'Affaires at Washington,‡ you will perceive that the United States' Government take exception to an order issued by Baron Senfft von Pilsach on the 14th July last, fixing the rate of

* Also to Mr. Herbert. † No. 242. ‡ No. 245.

exchange at which the English pound sterling and the 20-mark gold piece are to be received at 5 dollars United States' currency instead of at 4 dol. 76 c.

Her Majesty's Consul at Apia has been instructed to endeavour, in concert with his German and United States' colleagues, to effect with the President of the Municipal Council a speedy and amicable settlement of the misunderstanding which has arisen.

With reference to Lord Salisbury's despatch of the 20th April, and to previous correspondence respecting the currency question in Samoa, I should wish your Excellency to inform the German Government of the steps taken by Her Majesty's Government in this matter, and to express a hope that they will instruct their Consul in a similar sense.

I am, &c.
(Signed) ROSEBERY.

No. 249.

The Earl of Rosebery to Mr. Herbert.

Sir, *Foreign Office, September* 2, 1892.

WITH reference to your despatch of the 17th ultimo, I have to request that you will inform the United States' Government that Her Majesty's Consul at Apia has been instructed to endeavour, in concert with his German and United States' colleagues, to effect with the President of the Municipal Council a speedy and amicable settlement of the question which has been raised as to whether the pound sterling and 20-mark gold piece should be received as the equivalent of 4 dol. 76 c. or 5 dollars United States' currency.

I am, &c.
(Signed) ROSEBERY.

No. 250.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, September* 2, 1892.

WITH reference to previous correspondence respecting the currency question in Samoa, I am directed by the Earl of Rosebery to transmit to you herewith a copy of a despatch from Her Majesty's Chargé d'Affaires at Washington,* from which it appears that the United States' Government take exception to an order issued by Baron Senfft von Pilsach on the 14th July, fixing the rate of exchange at which the English pound sterling and the 20-mark gold piece are to be received at 5 dollars United States' currency instead of at 4 dol. 76 c.

You should endeavour, in concert with your German and United States' colleagues, to effect with the President of the Municipal Council a speedy and amicable settlement of the point in dispute.

For your more complete information, I am to inclose a copy of a despatch from Her Majesty's Minister at Washington on this subject which was received in April last.†

I am, &c.
(Signed) P. CURRIE.

No. 251.

Mr. Trench to the Earl of Rosebery.—(Received September 5.)

My Lord, *Berlin, September* 3, 1892.

WITH reference to your Lordship's despatch of the 19th ultimo, I have the honour to report to your Lordship that the Acting Minister for Foreign Affairs told me this afternoon that as far back as the 28th July last Count Hatzfeldt was

* No. 245.

† No. 192.

instructed to bring the question of taxation in Samoa before the notice of Her Majesty's Government.

In the opinion of the Imperial Government, it would be very advantageous if an understanding could be arrived at as soon as possible on this point, as the further development of interests in Samoa would materially depend on the settlement of this question.

A copy of a Customs Ordinance, drawn up in the name of the native Ruler, had also been received from the President of the Municipality at Apia with the request that it might be made applicable to German subjects resident in Apia. This Ordinance rested on the assumption that customs dues can be administered by the Samoan Government, which assumption, in the opinion of the German Government, is unsupported.

Moreover, in the opinion of the Imperial Government, the Ordinance on its own merits is thoroughly unsatisfactory; according to experts, it would burden and hamper trade to an extraordinary extent, and its enforcement would involve an expense out of all proportion to the receipts.

I have, &c.
(Signed) P. LE POER TRENCH.

No. 252.

*The Earl of Rosebery to Sir E. Malet.**

Sir, *Foreign Office, September* 5, 1892.

WITH reference to previous correspondence on the affairs of Samoa, I transmit to you herewith, for your information, a copy of a letter from the President of the Municipal Council at Apia respecting the audit of his accounts and of those of the Samoan Government, as to which a difference of opinion has arisen between him and the members of the Municipal Board.†

By section 5 of Article V of the Final Act of the Conference on the affairs of Samoa, it is provided that the President "shall be the receiver and custodian of the revenues accruing under the provisions of this Act, and shall render Quarterly Reports of his receipts and disbursements to the King and to the Municipal Council."

It appears that the auditors of the accounts, appointed by the Municipal Council, consider it necessary for audit purposes that the cash in the Treasury at the time of audit should be verified.

With this view, Her Majesty's Government are disposed to agree; for it is evident that there can be no effective audit unless the auditors are permitted to count the cash in hand.

But Baron Senfft von Pilsach objects that, as the funds both of the Government and of the Council are paid into one account, this could not well be done without showing to the auditors the money in hand belonging to the Samoan Government, which would be tantamount to allowing the municipal auditors to audit the accounts of the Government.

He observes, however, that this difficulty could be met by keeping the revenues of the Municipal Council distinct from those of the Samoan Government; and it appears to Her Majesty's Government that this would be the best course to adopt.

As Baron Senfft von Pilsach states that, availing himself of the provisions of the Final Act, he desires to obtain a joint instruction on the subject from the three Treaty Powers, I have to request your Excellency to inform the German Government of the views held by Her Majesty's Government, and to ascertain what answer they propose to return to the similar application which it is presumed that the President of the Municipal Council has addressed to them in this matter.

I am, &c.
(Signed) ROSEBERY.

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* Also to Mr. Herbert.

† No. 243.

No. 253.

Count Hatzfeldt to the Earl of Rosebery.—(Received September 6.)

(Translation.)

My Lord, *German Embassy, London, September 3, 1892.*

IN continuation of my note of the 14th ultimo respecting the Land Commission in Samoa, to which your Excellency returned a provisional reply on the 27th ultimo, I have the honour, under the instructions I have received, to state as follows.

It appears from the Reports received from the Imperial Consul at Apia, that the Chief Justice intends to make the registration of each title to land dependent on a preliminary survey of the land, to be made at the expense of the interested parties. The Imperial Government is of opinion that no survey is necessary, and that it cannot be required under the provisions of the Samoa Act, the IVth Article, section 7, of which speaks merely of a registration of the land titles. Apart from this consideration, it is, however, clear that such a procedure, as far as the local circumstances make its execution at all possible, would delay the settlement of the land question in Apia in a most undesirable manner, and would throw disproportionate costs on those interested in the land. The Swedish official appointed by the Chief Justice would alone derive any real profit from the survey in question. The Imperial Government intends, therefore, not to sanction it, and to send instructions in this sense to the Imperial Consul at Apia. The Imperial Government hope that Her Britannic Majesty's Government will furnish similar instructions to their Representative in Apia.

I have, &c.
(Signed) P. HATZFELDT.

No. 254.

Mr. Trench to the Earl of Rosebery.—(Received September 12.)

My Lord, *Berlin, September 10, 1892.*

UPON the receipt of your Lordship's despatch of the 30th ultimo respecting the difference of opinion which has arisen in Samoa between the President of the Municipal Council and the Consular Body, in regard to the appointment of Returning officers for municipal elections, I took, in the absence of Sir Edward Malet, occasion to mention the matter to the Acting Minister for Foreign Affairs, and, at Baron von Rotenhan's request, furnished him with a Memorandum of the contents of your Lordship's despatch above referred to.

I have now received from the Colonial Department of the Imperial Ministry for Foreign Affairs a *note verbale*, translation of which I have the honour to inclose herewith, in which the circumstances attending this difference of opinion are discussed, the conclusion being that the Imperial Government will gladly follow the suggestions of Her Majesty's Government, and will issue confidentially the desired instructions to their Consul at Apia.

I have, &c.
(Signed) P. LE POER TRENCH.

Inclosure in No. 254.

Note Verbale.

(Translation.)

THE Imperial Ministry of Foreign Affairs has the honour to inform Her Majesty's Embassy, with reference to the Memorandum of the 3rd instant, that they also have received a complaint from the President of the Municipal Council at Apia regarding the action of the Consular Body.

The Imperial Government share the opinion that, according to Article V, section 3, of the General Act of Berlin, the Consular Body cannot as a rule postpone coming to a decision in regard to the Resolutions of the Municipal Council on the ground that one or another of the Consuls is awaiting instructions from his Government. Nevertheless, the Consular Body has frequently before now imposed delays on grounds of expediency, without any protest being raised on the part of the Municipal

Council. In a recent case, connected with the issue of certain penal regulations, the Municipal Council had on the contrary declared their agreement to a postponement suggested by the German Consul, for the express reason that instructions might be received. If, in the present instance, the Municipal Council, contrary to their usual practice, objected to a delay, they were in a position, if they chose, to bring the matter before the Chief Justice for decision in the manner prescribed by the General Act. It appears, moreover, that in this case also the Municipal Council has raised no objections to the treatment of the question by the Consular Board, and that the complaint of Baron Senfft von Pilsach is the outcome rather of his personal initiative. All this might be held to constitute a sufficient reason for dissenting from Baron von Senfft's opinion, but the Imperial Ministry of Foreign Affairs will, notwithstanding, gladly follow the suggestion of Her Majesty's Government, and will issue confidential instructions to the Imperial Consul at Apia to have an eye in future to the greatest possible expedition in the dispatch of business by the Consular Board.

Ministry of Foreign Affairs, Colonial Department,
Berlin, September 8, 1892.

No. 255.

The Earl of Rosebery to Count Hatzfeldt.

(A.)
M. l'Ambassadeur, *Foreign Office, September* 13, 1892.

HER Majesty's Government have given their attentive consideration to your Excellency's note of the 14th ultimo, stating the objections entertained by the German Government to a fee for the registration of land titles which has been imposed by the Chief Justice of Samoa, under an Ordinance entitled "The Real Property Ordinance, 1891," and asking for the views of Her Majesty's Government upon the subject.

Her Majesty's Government are advised by the Law Officers of the Crown, to whom your note was referred, that the issue of this Ordinance by the Chief Justice was *ultra vires*, and they have instructed the British Consul at Samoa in this sense.

It seems desirable that a collective communication should be made by the Consuls of the three Treaty Powers to the Chief Justice, and Mr. Cusack-Smith will be authorized to take part in it as soon as your Government have arranged with the United States' Government for the co-operation of their Consul.

I have, &c.
(Signed) ROSEBERY.

No. 256.

The Earl of Rosebery to Count Hatzfeldt.

(B.)
M. l'Ambassadeur, *Foreign Office, September* 13, 1892.

WITH reference to my previous note of this date relative to "The Real Property Ordinance, 1891," issued by the Chief Justice of Samoa, I have the honour to acknowledge the receipt of your Excellency's communication of the 3rd instant respecting the proposed further action of the Chief Justice in regard to the registration of land titles.

Your Excellency states that M. de Cedercrantz contemplates making the registration dependent in each case upon a preliminary survey to be made at the cost of the party interested, and you explain the reasons which lead the German Government to consider such a survey to be unnecessary in itself, as well as calculated to entail undesirable delay, and to throw disproportionate expense on the persons concerned. You add that they propose, under these circumstances, to withhold their sanction from the measure, and to instruct the German Consul at Apia to that effect.

I have the honour to acquaint your Excellency that Her Majesty's Government concur in these views, and that Her Majesty's Consul at Apia will be instructed in a similar sense.

I have, &c.
(Signed) ROSEBERY.

No. 257.

The Earl of Rosebery to Mr. Herbert.

Sir, *Foreign Office, September* 13, 1892.

I TRANSMIT to you herewith, for communication to the United States' Government, copy of a note from the German Ambassador respecting "The Real Property Ordinance, 1891," issued by the Chief Justice of Samoa, together with copy of the reply which I have returned to it.*

I am, &c.
(Signed) ROSEBERY.

No. 258.

The Earl of Rosebery to Mr. Herbert.

Sir, *Foreign Office, September* 13, 1892.

WITH reference to my despatch of this day's date, I transmit to you herewith copy of the correspondence, noted in the margin,† relative to the reported intention of the Chief Justice of Samoa to make the registration of land titles in those islands dependent on a previous survey, to be carried out at the cost of the parties interested.

Her Majesty's Government concur with the German Government in the opinion that this step should not receive the sanction of the Treaty Powers, and they have accordingly instructed Her Majesty's Consul at Apia to make a communication in that sense to the Chief Justice if he should move further in the matter.

I have to request that you will communicate the substance of the accompanying papers to the United States' Government.

I am, &c.
(Signed) ROSEBERY.

No. 259.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, September* 13, 1892.

WITH reference to your despatch of the 1st March last, forwarding copy of "The Real Property Ordinance, 1891," enacted by the Chief Justice of Samoa, I am directed by the Earl of Rosebery to inform you that Her Majesty's Government are advised by the Law Officers of the Crown, to whom the question has been referred, that the issue of this Ordinance by the Chief Justice was *ultra vires*.

It seems desirable that a collective communication should be made to the Chief Justice by the Consuls of the three Treaty Powers, and you will be authorized to take part in it as soon as the German Government have arranged with the United States' Government for the co-operation of their respective Consuls.

I am, &c.
(Signed) P. CURRIE.

No. 260.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, September* 13, 1892.

LORD ROSEBERY is informed by the German Government that it is the intention of the Chief Justice of Samoa to make the registration of land titles dependent on a previous survey to be made at the cost of the party interested.

The German Government consider this proceeding to be unwarranted by the provisions of the Final Act, and they are of opinion that it is unnecessary in itself, as well as calculated to entail undesirable delay, and to throw disproportionate expense on the persons concerned.

* Nos. 239 and 255.

† Nos. 253, 256, and 260.

The German Consul at Apia will accordingly be instructed to inform the Chief Justice that the German Government must withhold their sanction from the measure.

Her Majesty's Government concur in the views of the German Government upon this point, and I am to instruct you to act in concert with your German colleague in any communication which it may be necessary to make to the Chief Justice if he should move further in the matter.

I am, &c.
(Signed) P. CURRIE.

No. 261.

The Earl of Rosebery to Mr. Herbert.

Sir, *Foreign Office, September* 14, 1892.

WITH reference to my despatch of the 30th ultimo, I transmit, for your information and for communication to the United States' Government, the correspondence, noted in the margin,* respecting the difference of opinion which has arisen between the Consular Board at Apia and the majority of the Municipal Council, including the Municipal President, in regard to the appointment of the Returning officers for municipal elections.

I am, &c.
(Signed) ROSEBERY.

No. 262.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, September* 14, 1892.

I AM directed by the Earl of Rosebery to transmit to you the accompanying extract from a letter from Baron Senfft von Pilsach, the Municipal President of Apia,† respecting the difference of opinion which has arisen between the Consular Board and the majority of the Municipal Council, including the President, in regard to the appointment of the Returning officers for municipal elections.

Baron von Pilsach maintains that under section 3, Article V, of the Final Act the question should be referred for decision to the Chief Justice, and not to the Treaty Powers.

Her Majesty's Government are of opinion that the Municipal President is in this instance correct in his interpretation of the Act. The provision in question appears to have been expressly designed to prevent excessive delay in matters of administrative detail, and to expedite the dispatch of business by the Consular Board at Apia.

You will accordingly take the necessary steps to refer the question to the Chief Justice as soon as your German and United States' colleagues receive instructions from their respective Governments to a similar effect, and you will inform Baron von Pilsach of the above decision.

I am, &c.
(Signed) P. CURRIE.

No. 263.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received September 15.)

My Lord, *Samoa, August* 3, 1892.

THE "Samoa Times," the only newspaper in Samoa, has up till recently consistently offered an outspoken, if somewhat violent, opposition to the Samoan Government and to all officials in Samoa, especially the Chief Justice and President.

I have now the honour to report that in April last Mr. Cusack, the proprietor and editor of the paper, after a series of bitter attacks upon the President's adminis-

* Nos. 254 and 262. † No. 242.

tration, suddenly and mysteriously sold the paper, and the nominal purchaser was Mr. Chatfield, a notoriously impecunious British subject.

The price paid was 650*l.* in cash, and rumours were rife that the money had been advanced or paid out of Samoan Government funds in an irregular manner.

But the matter was never cleared up.

Owing to some legal proceedings against Mr. Chatfield brought before me as Deputy Commissioner for the Western Pacific, the President of the Municipal Council was obliged to inform me that he had purchased the "Samoa Times" with Government funds.

This step, taken secretly, appears indefensible, for the Samoan Government was then actually using its last remaining funds, and the President himself had appealed to the Treaty Powers to rehabilitate the exhausted Treasury of the Samoan Government.

Up to the time of the purchase of the newspaper the President had, under section 5, Article V, of the Berlin Final Act, furnished the Consuls with copies of the Quarterly Government Accounts, but we have seen none later than the 31st December, 1891, which reached us in March 1892, and the President has stated that he no longer intends to permit the Consuls to inspect his financial reports to the King. He is not bound to do so, but if no person but the King is to see these Reports, and of which the King cannot understand one word, the last vestige of a check upon ill-advised expenditure is removed.

Since its purchase by the Samoan Government the "Samoa Times" has been a feebly-conducted supporter of the Government.

Having expended 650*l.* in the purchase of the paper, the Government are starting, at additional cost, a Royal Gazette, in which all Government advertisements, hitherto the mainstay of the "Samoa Times," will for the future appear, thereby reducing the selling value of the "Samoa Times" from 650*l.* to about 200*l.*, a loss of 450*l.* to the Samoan Government, which is not a very brilliant financial operation.

The Samoan Government, despite its seizure of the funds of the Municipality, is almost bankrupt, and even if the Treaty Powers grant to it extra funds, without less prodigal and unbusinesslike management the finance of the Samoan Government has no prospect of giving anything but continual trouble to the Treaty Powers.

As reported in my despatch of the 10th September, 1891, an unnecessary gaol and an unnecessary dwelling-house for the President and his wife at a combined cost of about 2,000*l.*, the "Samoa Times" costing 650*l.*, and a mail subsidy to the ocean steamers amounting to 300*l.*, are almost all that the President has to show for all the funds which have been at his disposal.

It is a painful comment upon the purchase of the "Samoa Times" that the ocean mail-steamers, which have not unreasonably demanded a total yearly subsidy of 600*l.* for continuing the priceless service of calling twice a-month at Apia, and making a stay of over four hours each trip, have been informed by the President that he will not increase the subsidy, and Samoa is threatened with the immediate cessation of the mail service.

It is disheartening to see the ample funds of the Samoan Government provided by the Berlin Final Act frittered away in channels that benefit neither Samoans nor Whites.

As was to be foreseen, a rival paper will shortly be started which will completely ruin in a few months the "Samoa Times," and the whole of the 650*l.* expended on its purchase will be irretrievably lost.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 264.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received September 15.)

My Lord, *Samoa, August 11, 1892.*

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 24th June, 1892, instructing me to join my colleagues in conveying the reply of the Treaty Powers to King Malietoa's request for the assistance of their ships of war.

I have to report that yesterday the Consuls waited upon the King, and handed to him the inclosed Memorandum both in Samoan and English.

The King expressed entire satisfaction, and publicly thanked us for all our efforts for the good of Samoa on this and many other occasions.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

Inclosure in No. 264.

Memorandum.

Afioga! *Samoa, August* 10, 1892.

WITH reference to your identic letter to the Treaty Powers dated the 9th December last, requesting the assistance of their ships of war at Apia to enable the Supreme Court of Samoa to execute its warrants, we, the Consular Representatives in Samoa of the Treaty Powers, have the honour to inform you that with a view to uphold the system of judicature established by the Final Act of the Conference of Berlin on Samoan Affairs, the Treaty Powers are disposed upon certain conditions to accede to your appeal. The intervention of ships of war will be restricted to the action required for executing the warrants of arrest issued by the Supreme Court. Such intervention is to take place only on a requisition from the Consul of the country to which the vessel belongs, and he will make the requisition only on occasions when the Consuls of the three Powers are unanimously of opinion that such support is necessary, and request him to apply for it.

It is to be borne in mind that the intervention of the ships of war in these cases should have the character of an executory measure against individuals, and should not lead to any warlike action.

Under these instructions we would suggest that when a request is made for the assistance of a ship of war it should be made by an identic note to the three Consuls.

We have, &c.
(Signed) T. B. CUSACK-SMITH, *Her Britannic Majesty's Consul.*
BIERMANN, *Imperial German Consul.*
W. BLACKLOCK, *Vice-Consul-General for the United States of America.*

No. 265.

Consul Cusack-Smith to the Marquis of Salisbury.—(*Received September* 15.)

My Lord, *Samoa, August* 16, 1892.

I HAVE the honour to report that Baron Senfft von Pilsach in a letter dated the 23rd December, 1891, copy inclosed, to the then acting Chairman of the Municipal Council, refused to carry out a Resolution of the Council ordering the withdrawal of the moneys deposited by the President in his own name in a bank in Sydney. The position he assumed was an extraordinary one. After stating that, in his opinion, there was only one Treasury common both to the Samoan Government and the Municipality, instead of a distinct Treasury for each, he proceeds: "Neither the Samoan Government are entitled to interfere in the same, the Treasury containing moneys held for the use of the Municipal Council of Apia, nor the Municipal Council, considering that the Treasury comprises moneys to be used by the Samoan Government."

Having shaken off all control or interference, he admits that "the Treasurer is subject to the orders of payment made by the Council, but not to any instructions concerning the administration of the Treasurer."

He further tells the Municipal Council, "You will find that even the Treasurer's Quarterly Reports must show his receipts and disbursements, but not his administrative measures."

A profound feeling of dissatisfaction and uneasiness was aroused on this notification that the Municipal balance was not to be kept separate, and that it might entirely be swallowed up, except on paper, at any time by the requirements of the Samoan Government.

On appeal to the Chief Justice in a lengthy Judgment he decided that Baron

Senfft von Pilsach "was justified in refusing to accept the instructions of the Municipal Council."

Here the matter might have rested, but that this week the inclosed Report of the Municipal Auditors has been laid before the Consular Board.

It states that "there should have been on the 31st March, 1892, a balance of 572*l.*," but that the Auditors were unable to certify to the correctness of the cash, as "they were not allowed to check it."

There is no bank in Samoa, and the only way in which public confidence can be maintained is by verifying the cash balances at every audit.

The financial administration of the funds of the Municipal Council and of the Samoan Government should be kept quite distinct, and nothing done to raise unnecessary distrust.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

Inclosure 1 in No. 265.

Baron Senfft von Pilsach to the Municipal Council, Apia.

Gentlemen, *Apia, Samoa, December* 23, 1891.

I HAVE the honour to acknowledge receipt of your letter dated the 11th instant, through which you notify to me a Resolution passed by the Municipal Council of Apia on the 25th November, and approved by the Cousular Board, saying that the Treasurer be instructed to withdraw the municipal moneys from the Union Bank, Sydney, as soon as the terms of deposit have expired, and to deposit the same in United States' gold in the Municipal Treasury in Apia.

In reply, I beg to state that in passing this Resolution the Municipal Council have transgressed their competency, as it is laid down in Article V, section 3, of the Berlin General Act. According to this Article there exists neither a special Treasurer nor a special Treasury of the Municipal Council of Apia. All the revenues accruing under the provisions of this Act (see Article V, section 5, 4th clause) are paid into the Treasury (Article VI, section 3), the administration of which is intrusted to one Treasurer to be appointed not by the Municipal Council but by the Samoan Government upon the previous agreement of the Signatory Powers. A Municipal Treasury does not exist but in the ledgers and accounts of the Treasury.

The Treaty having thus constituted one Treasury comprising the whole of the Samoan revenue, apparently its Administrator must be guided also on one way.

Neither the Samoan Government are entitled to interfere in the same, the Treasury containing moneys held for the use of the Municipal Council of Apia, nor the Municipal Council considering that the Treasury comprises moneys to be used by the Samoan Government.

The Treasurer is subject to the orders of payment made by the Council, but not to any instructions concerning the administration of the Treasurer. You will find that even his Quarterly Reports must show his receipts and disbursements, but not his administrative measures, although the matter of the Resolution which you have forwarded to me has been under my consideration before I received your communication.

Yet I must refuse to accept such instructions, the formal want of which I have stated is not the only reason for my doing so, as the respective Resolution does not explain the practical reasons which have led the Council to pass the same; I am unable to examine those reasons. In omitting such explanation the Council have failed to understand my position.

Being the only custodian of the public moneys, I am not allowed to carry out any instructions or to follow any recommendation without having convinced myself of its expediency.

I shall be obliged if you kindly will communicate these remarks to the Municipal Council of Apia.

I have, &c.
(Signed) FRHR. SENFFT VON PILSACH.

Inclosure 2 in No. 265.

Newspaper Extract.

THE PRESIDENT'S POWER AS TREASURER.

Decision of the Chief Justice.

THIS is a matter in controversy between the Municipal Council of Apia and the President, Baron Senfft von Pilsach, as receiver and custodian of the Samoan revenue. In a meeting held on the 25th November, 1891, the Municipal Council passed the following Resolution, viz.:—

"That the Treasurer be instructed to withdraw the municipal moneys from the Union Bank of Australia, Sydney, as soon as the terms of deposit have expired, and to deposit the same in United States' gold in the Municipal Treasury."

The Consular Board notified their approval in a communication dated the 4th December, 1891. This instruction having been duly notified to Baron Senfft von Pilsach by letter dated the 11th December, 1891, written by the Chairman *pro tem.*, Baron von Pilsach refused, by letter dated the 23rd December, to accept the instructions in question. In a meeting held on the 30th December the Council resolved to refer the matter to this Court for settlement.

From the written statement of the parties I learn, concerning the matter in dispute, that the President asserts that the Municipal Council, in passing the first Resolution, exceeded the powers conferred upon it by the Berlin General Act, whereas the Council maintains that it had the right to give the instructions in question, and that the Resolution in question is regular and valid, and strictly within the powers of the Council under the Berlin General Act, and that, in disobeying the instructions of the Council in this matter, the President has exceeded his powers and contravened both the wording and the spirit of the Act. The point at issue is thus this: Was the President of the Municipal Council of Apia, as Treasurer of the Samoan revenue, justified in refusing to accept the instructions of the Municipal Council?

In dealing with the question I have not failed to observe that the said Resolution of the 25th November, 1891, has been passed in the regular way, and is formally valid. This, however, is not the only matter to be considered in deciding the question now before me. There is no doubt that the President is not only entitled, but bound, to omit the carrying out of any Resolution, though formally valid, if the tenour of such Resolution be in conflict with the provisions or the spirit of the Berlin General Act. It therefore also has to be considered whether or not such is the case with the Resolution in question. In this respect section 5, Article V, of the Berlin General Act provides that the President shall be the receiver and custodian of the revenue accruing under the provisions of the Act. In this capacity he may, under the same section, receive and act under the joint instructions of the three Treaty Powers, but besides the instructions which may be given him in such way his instructions are contained in the General Act itself, and Articles V and VI contain provisions concerning his duties in his aforesaid capacity. We shall be guided by those provisions and by the spirit of the General Act, and there is nothing in the spirit nor in the provisions that imposes upon him the duty of obeying any instructions of the Municipal Council in the administration thus intrusted to him. That, as the Municipal Council points out, the authority to give such instructions is exercised by other local bodies as against their Treasurers has no bearing upon the matter in question, since the position of such Treasurers is not to be compared to the position of the President as custodian of the revenue of this kingdom. Moreover, the analogy derived from the powers of local bodies in foreign countries of the highest civilization and culture is not applicable to the local circumstances of this country, the requirements of which always must be guided in the interpretation of laws as far as such interpretation can be constructive. I therefore decide that the said Resolution of the 25th November, 1891, is void as in conflict with the Berlin General Act, and that the President, Baron Senfft von Pilsach, was justified in refusing to accept the instructions of the Municipal Council.

The Municipal Council shall pay the costs in this matter.

(Signed) C. CEDERCRANTZ.

Inclosure 3 in No. 265.

Messrs. Trood and Aspinall to the Municipal Council, Apia.

Gentlemen, *Apia, Samoa, June* 20, 1892.

IN conformity with your instructions contained in letter of the 9th May, we have audited the accounts of the Municipal Council up to the 31st March last; we have examined the vouchers, compared them with the books, and find the figures correct, showing that on the 31st March there should have been a cash balance on hand of 2,880 dol. 22 c. as per balance-sheet submitted to us.

As intimated to you in ours of the 30th March, we are unable to certify to the correctness of the cash, as we were not allowed to check it. With regard to the statement (signed by the President) of moneys transferred from the Municipality to the Government, and referred to in yours of the 9th May, we have simply taken it as any other voucher, as we did not deem it our province to enter into the items.

We notice a marked improvement in the book-keeping from the commencement of the year; previous to that they were confusing to any stranger taking them in hand.

We would suggest that Auditors be appointed for a term, and that they have access to the books at any time, as is the usual custom with public bodies; this would greatly simplify the matter for the Auditors, as they could then keep in touch with the work throughout, and the Council would receive their audits whenever required.

We are, &c.

(Signed) THOMAS TROOD.
R. P. ASPINALL.

No. 266.

Mr. B. Haggard to the Marquis of Salisbury.—(Received September 15.)

My Lord, *Apia, Samoa, August* 16, 1892.

I HAVE the honour to inform you we have reported from the Land Commission some sixty claims since my last Report; some forty more are on the verge of being reported.

We Commissioners have been engaged for six weeks in hearing the intricate and important French Roman Catholic Mission claims ("The Marist Brothers"); more than half of which were strenuously contested both by natives and aliens. They presented a history of regrettable transactions in the past, which could not allow of the Commissioners reporting in the favour of a great number of them. They claimed some of the most valuable land in and about Apia, and large tracts (though in the Municipality) have been declared by the Commissioners to have been improperly obtained in accordance with the requirements of the Berlin Final Act, 1889.

I have, &c.

(Signed) BAZETT M. HAGGARD.

P.S.—Out of some 600 cases reported, there is still only one case to go on (possible) appeal to the Chief Justice of Samoa, showing the complete unanimity and harmony of the Commissioners.

B. M. H.

No. 267.

The Earl of Rosebery to Mr. Trench.

Sir, *Foreign Office, September* 15, 1892.

WITH reference to your despatch of the 3rd September, respecting taxation in Samoa, I have to call your attention to the communication which I made to the German Ambassador on the 12th ultimo, in reply to Count Metternich's verbal communication of the 24th June last, explaining the views of Her Majesty's Government on the question of the apportionment of the import and export duties, leviable under the provisions of Article VI of the Berlin Final Act.

A copy of this correspondence has been already communicated to Her Majesty's Embassy.

You should ascertain from the German Government whether it is their intention to make any further proposals to Her Majesty's Government with a view to a settlement of this matter.

The question of the Customs Ordinance recently passed by the Samoan Government is occupying the attention of Her Majesty's Government in consultation with the Law Advisers of the Crown.

I am, &c.
(Signed) ROSEBERY.

No. 268.

Mr. Trench to the Earl of Rosebery.—(Received September 19.)

My Lord, *Berlin, September 16, 1892.*

WITH reference to your Lordship's despatch of the 5th instant, respecting the question raised by Baron Senfft von Pilsach in regard to the audit of the Municipal and Government accounts in Samoa, I have now the honour to transmit to your Lordship herewith a translation of a note which I have to-day received from the Imperial Ministry of Foreign Affairs, intimating that the German Government attach no special importance to the present case, which, they consider, may be properly settled by the Chief Justice. They are, however, of opinion that the President of the Municipal Council should be cautioned against the undue multiplication of subordinate posts.

I have, &c.
(Signed) P. LE POER TRENCH.

Inclosure in No. 268.

M. Rotenhan to Mr. Trench.

(Translation.) *Foreign Office, Berlin, September 15, 1892.*

THE Undersigned has the honour to inform Mr. Le Poer Trench, in reply to his note of the 12th instant, that the President of the Municipal Council at Apia has also asked the Imperial Government for instructions with reference to the audits of his Treasury administration.

As no special importance is attached by the Imperial Government to the question raised by Baron Senfft von Pilsach, the Imperial Consul has been instructed to inform Baron von Senfft that the Imperial Government intends to remain neutral in the matter, which, in case of necessity, may be settled by the decision of the Chief Justice, in accordance with the Regulations of the Samoa Act.

The Undersigned therefore considers it needless to change the instructions to the Imperial Consul in the sense proposed by Her Majesty's Government. But Baron Senfft von Pilsach should, however, be warned against further increasing the already considerable expense of administering the country and the Municipality, by creating, out of affection for principles or theories, fresh posts, such as that of Assistant Treasurer to the Municipality, as suggested in his Report.

The Undersigned will instruct the Imperial Consul to make a communication in this sense to his colleagues, and, under certain conditions, to the President of the Municipal Council.

The Undersigned, &c. (Signed) ROTENHAN.

No. 269.

Mr. Trench to the Earl of Rosebery.—(Received October 3.)

My Lord, *Berlin, September 29, 1892.*

IN compliance with the instructions contained in your Lordship's despatch of the 15th instant, I addressed a note on the 23rd instant to the Imperial

Ministry for Foreign Affairs, requesting to be informed whether the German Government intend to make any further proposals with a view to the settlement of the question of the apportionment of the import and export duties in Samoa leviable under the provisions of Article VI of the Final Act of the Conference of Berlin.

Baron von Marschall, in the note of which I have the honour to inclose a translation herewith, states in reply that the Imperial Government have no such intention.

I have, &c.
(Signed) P. LE POER TRENCH.

Inclosure in No. 269.

Baron von Marschall to Mr. Trench.

(Translation.) *Foreign Office, Berlin, September* 28, 1892.

THE Undersigned has the honour to inform Mr. Le Poer Trench, in reply to his note of the 23rd instant, that the Imperial Government does not propose to offer any further suggestions in the matters in dispute between the Samoan Government and the Municipality of Apia.

The Undersigned, &c. (Signed) MARSCHALL.

No. 270.

The Earl of Rosebery to Mr. Trench.

Sir, *Foreign Office, October* 5, 1892.

COUNT HATZFELDT informed me to-day that, in view of the disturbed state of affairs in Samoa, the German Government were anxious to send two ships of war to that island in order to take measures for the protection of life and property. His Excellency added that the United States' Government had raised objections when this was proposed some time ago, and he asked what my views were.

I replied that I had no objection in principle, though I should be glad to learn what were the exact measures that it was proposed to adopt. I promised, however, to sound the United States' Government on the subject and to recommend their acquiescence, as it was desirable that the three Treaty Powers should act in strict concert.

I am, &c.
(Signed) ROSEBERY.

No. 271.

The Earl of Rosebery to Mr. Herbert.

(Telegraphic.) *Foreign Office, October* 6, 1892.

THE German Government are desirous of sending one or two men-of-war to Samoa for the protection of life and property, in view of the disturbed condition of affairs there.

Communicate this proposal to the United States' Government, and say that I see no objection in principle and recommend acquiescence, as it is desirable that the Treaty Powers should maintain strict concert.

No. 272.

The Earl of Rosebery to Consul Cusack-Smith.

(Telegraphic.) *Foreign Office, October* 6, 1892.

THE German Government concur in the opinion of their Consul at Samoa that, in the present disturbed condition of affairs there, the armed intervention of the Treaty Powers is required in order to restore order.

Do you hold a similar opinion?

No. 273.

Mr. Herbert to the Earl of Rosebery.—(*Received October* 10.)

My Lord, *Washington, September* 28, 1892.

WITH reference to your Lordship's despatch of the 30th ultimo, I have the honour to inclose copy of a note which I have received from the United States' Government respecting the difference which has arisen between the Consular Board and the Municipal Council at Apia regarding the appointment of Returning Officers for municipal elections.

As your Lordship will observe, Mr. Foster is disposed to agree with Her Majesty's Government, that the question is properly one for the decision of the Chief Justice, and he will so instruct the United States' Consul.

I have, &c.
(Signed) MICHAEL H. HERBERT.

Inclosure in No. 273.

Mr. Foster to Mr. Herbert.

Sir, *Department of State, Washington, September* 26, 1892.

I HAVE the honour to acknowledge the receipt of your note of the 19th instant, inclosing an extract from a letter from the President of the Municipal Council at Apia respecting a difference of opinion which has arisen between the Consular Board and the Municipal Council regarding the appointment of Returning Officers for municipal elections; and to say that a similar communication has been received from Baron Senfft von Pilsach. This Government understands the question at issue to be whether or not an appointment by the Municipal Council of a Returning Officer under an Election Ordinance approved by the Consular Board must also have the approval of that Board, the latter contending that such approval is necessary, and the former that it is not. In this matter the Government of the United States is disposed to agree with Her Majesty's Government, that the question is properly one for the decision of the Chief Justice, and it will so instruct its Consul.

I have, &c.
(Signed) JOHN W. FOSTER.

No. 274.

Mr. Herbert to the Earl of Rosebery.—(*Received October* 10.)

My Lord, *Washington, September* 28, 1892.

I HAVE the honour to inclose copy of a note which I have received from Mr. Foster, in which he states that Baron Senfft von Pilsach has renewed the tender of his resignation as President of the Municipal Council at Apia, and that he is not disposed to make any further effort to overcome Baron Senfft von Pilsach's reluctance to continue in office. Mr. Foster adds, however, that before taking any action in the matter he would be glad to learn what view of the situation is taken by Her Majesty's Government.

I have, &c.
(Signed) MICHAEL H. HERBERT.

Inclosure in No. 274.

Mr. Foster to Mr. Herbert.

Sir, *Department of State, Washington, September* 27, 1892.

I HAVE for some time had under consideration a communication addressed to the Secretary of State by Baron Senfft von Pilsach, the President of the Municipal Council of Apia, renewing the tender of his resignation, and urging its acceptance. I have also received a note from the Imperial German Chargé d'Affaires, communicating the intention of the Imperial Government to refuse the renewed request of

Baron Senfft, there being in its judgment no occasion to reverse its former decision, and inviting the acquiescence of this Government in so doing.

Being disposed to regard the first tender of Baron Senfft's resignation in October 1891 as a hasty act, this Government was well disposed to offer no impediment to the course which the other Powers adopted in urging its withdrawal; and the hope was moreover indulged in that the undesirable friction which had unfortunately developed between the chief officials of the Samoan Administration might soon disappear.

In view, however, of the declaration now made by Baron Senfft von Pilsach that nothing has occurred that could have weakened the reasons of his first request, and sharing his frankly expressed belief that "frictions between those officials would be more prejudicial to the working of the Berlin Treaty than any other frictions," and while regretting the Baron's insistance on his purpose, I am disposed to make no effort to overcome his manifest reluctance to continue in the high office to which he has been appointed by the concurrent action of the three Powers.

Before responding in this sense, however, I have the honour to inquire what view of the situation is held by Her Majesty's Government.

I have, &c.
(Signed) JOHN W. FOSTER.

No. 275.

Mr. Herbert to the Earl of Rosebery.—(*Received October* 10.)

My Lord, *Washington, September* 28, 1892.

I HAVE the honour to inform your Lordship that I addressed a note to the United States' Government in the sense of your Lordship's despatch of the 5th instant, on the subject of the audit of accounts of the President of the Municipal Council at Apia, and I have now received a note from Mr. Foster in reply, in which he states that he has received a communication from Baron Senfft von Pilsach similar to that sent to Her Majesty's Government, and that the United States' Government is disposed to agree with the Government of Her Majesty, that the best course to adopt would be to keep the revenues of the Municipal Council distinct from those of the Samoan Government, in order that the audit of their accounts may include a verification of the cash balances. He adds that the Government of the United States would be willing to join with Her Majesty's Government and that of Germany in such an instruction to the President of the Municipal Council.

I have, &c.
(Signed) MICHAEL H. HERBERT.

No. 276.

Mr. Herbert to the Earl of Rosebery.—(*Received October* 10.)

My Lord, *Washington, September* 29, 1892.

I HAVE the honour to inform your Lordship that I addressed a note to the United States' Government in the sense of your Lordship's despatch of the 2nd instant in regard to the currency question in Samoa, and I have now received a note from Mr. Foster in reply, copy of which I have the honour to inclose herewith.

Mr. Foster states in this communication that he had supposed that an understanding had been reached by which the 20-mark gold piece was to be received as the equivalent of 4 dol. 76 c., and he expresses the hope that Her Majesty's Government will co-operate with that of the United States in securing the observance of the Treaty which establishes the coin of the United States as the unit of value in Samoa, and permits other coin to be taken at its equivalent value only.

I have, &c.
(Signed) MICHAEL H. HERBERT.

Inclosure in No. 276.

Mr. Foster to Mr. Herbert.

Sir, *Department of State, Washington, September* 28, 1892.

I HAVE the honour to acknowledge the receipt of your note of the 19th instant in reply to Mr. Adee's note of the 15th August, in which you inform me that Her British Majesty's Consul at Apia "has been instructed to endeavour, in concert with his German and United States' colleagues, to effect with the President of the Municipal Council a speedy and amicable settlement of the question which has been raised as to whether the pound sterling and the 20-mark gold piece should be received as the equivalent of 4 dol. 76 c., or 5 dollars United States' currency."

The Government of the United States had supposed that an understanding upon this subject with reference to the 20-mark gold piece was reached at this Department with the German Chargé in March last, by which it was to be received as the equivalent of 4 dol. 76 c. It was upon the basis of such an understanding that this Government instructed its Consul to co-operate with his German and British colleagues in favour of the admission of German coin in Samoa.

It is well understood that the 20-mark gold piece and the pound sterling are not, nor were they intended to be, the equivalent of 5 dollars; nor is either the equivalent of the other. To arbitrarily declare them such is an entire disregard of the fact, and in contravention of the terms of the Treaty. Section 4 of Article VI clearly forbids the reception of other currencies at more than their equivalent in "the standard money of the United States of America."

Baron Senfft von Pilsach not only receives the pound sterling and the 20-mark gold piece at more than their equivalent value, but his action goes to the extent of substantially making them units of value, which the Treaty equally precludes. The Consular Board and the Municipal Council in August 1891 agreed upon a basis of exchange which represents substantially the exchange value of these coins. It made the pound sterling the equivalent of 4 dol. 86 c., and the 20-mark gold piece the equivalent of 4 dol. 76 c. Their equivalent values, according to the regulations of the Treasury of this Government, are for pound sterling 4·8665 dollars, and for the 20-mark gold piece 4 dol. 76 c. It is reported that many of the merchants at Apia receive the 20-mark gold piece at 4 dol. 75 c., and pay it into the Treasury for duties at 5 dollars.

I hope that the Government of Her Majesty will be pleased to co-operate with the Government of the United States in securing an observance of the Treaty in this regard, which plainly establishes the coin of the United States as the unit of value in Samoa, and permits other coin to be taken at their equivalent value only.

I have, &c.

(Signed) JOHN W. FOSTER.

No. 277.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received October 12.)

My Lord, *Samoa, September* 13, 1892.

I HAVE the honour to report that while Her Majesty's ship "Curaçoa" was in harbour at Apia, the Government of Samoa, in accordance with the Memorandum delivered by the Consular Representatives of the Treaty Powers to King Malietoa on the 10th August, and reported in my despatch of the 11th August, made a request for the assistance of a war-ship to execute warrants of arrest at Malié, the camp of the rebel Chief Mataafa.

As from the report of the Marshal of the Supreme Court the arrests would not assume the nature of an executory measure against individuals, but would lead to warlike operations against an organized resistance, the Consuls were unanimous in deciding that this was not a case in which the assistance of a war-ship of the Treaty Powers ought to be granted under their instructions, and we replied accordingly.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

No. 278.

Consul Cusack-Smith to the Marquis of Salisbury.—(Received October 12.)

(Extract.) *Samoa, September 13, 1892.*

WITH further reference to my despatches of the 3rd and 16th August, in which I gave some account of the administration by Baron Senfft von Pilsach of the funds of the Samoan Government and of the Municipality, I have now the honour to report that both the Government and Municipality are now absolutely without funds.

The various officials are unable to draw their salaries, and there is no money even to pay police.

An order of the King's upon the Treasury to pay for a boat amounting to 100*l.* has been returned by the President, who states that there is no money in the Treasury.

This undignified state of things could have been entirely avoided by any one possessing a knowledge of finance, and a determination to avoid building out of the Government funds a dwelling-house for himself, an expensive gaol which has never been used, and purchasing the local newspaper to stifle its attacks upon his financial administration.

So long as the present Chief Justice and Municipal President are retained in office by the Treaty Powers, so long, I fear, will the administration of the Berlin Treaty be the complete failure which is patent to every one in Samoa.

The present financial deadlock will in no way be remedied by any readjustment of taxation and revenue between the Samoan Government and the Municipality, for neither have any funds; the former is in debt, the latter absolutely and hopelessly insolvent unless its revenues are restored to it.

Nothing but a resolute determination to collect the native taxes, and a firm, careful, and popular administration of the revenues of the Samoan Government can hope to mend matters, and it will take not months, but years. Every month that passes now without a change, or an inquiry into the requirements of the situation being made, makes the outlook gloomier.

No. 279.

Mr. B. Haggard to the Marquis of Salisbury.—(Received October 12.)

(Extract.) *Apia, Samoa, September 14, 1892.*

I HAVE the honour to inform you that I think all the claims to land in the "Municipality" will be reported upon by the Commissioners by the 1st October next.

No. 280.

Mr. Herbert to the Earl of Rosebery.—(Received October 13.)

(Telegraphic.) *Washington, October 13, 1892.*

WITH reference to your Lordship's telegram of the 6th instant, I have received a note from Mr. Foster, in which he states that he has no objection to offer to the proposal of the German Government, but he thinks that nothing in the present situation in Samoa calls for the presence of more than one vessel of either Power. German Chargé d'Affaires has made no communication on the subject, but should he do so he will answer him in same sense.

No. 281.

The Earl of Rosebery to Mr. Trench.

Sir, *Foreign Office, October* 14, 1892.

M. JENISCH called at this Department to-day on behalf of Count Hatzfeldt, who was indisposed, and inquired whether Her Majesty's Chargé d'Affaires at Washington had been instructed to recommend to the United States' Government the acceptance of the German proposal that each of the three Powers should dispatch two ships of war to Samoa for the protection of life and property. Count Hatzfeldt had understood from me that I was ready to recommend the proposal, but the note which he had subsequently received from me left the matter somewhat in doubt.

M. Jenisch was informed that Mr. Herbert had been directed to state that I saw no objection to the proposal, and to recommend its acceptance in view of the expediency of maintaining strict accord between the Treaty Powers.

A reply had just been received, stating that the United States' Government saw no objection to the proposal, but did not consider that the state of affairs required the dispatch of more than one vessel of either Power.

M. Jenisch was also informed that Her Majesty's Consul at Apia had not as yet replied to the telegraphic inquiry which had been addressed to him as to the present state of affairs in the islands.

I am, &c.
(Signed) ROSEBERY.

No. 282.

Mr. Herbert to the Earl of Rosebery.—(*Received October* 17.)

My Lord, *Washington, October* 6, 1892.

I DULY communicated copies of the correspondence which accompanied your Lordship's despatch of the 13th ultimo relative to the reported intention of the Chief Justice of Samoa to make the registration of land titles in those islands dependent on a previous survey to the United States' Government, and I have now received a note from Mr. Foster, copy of which is inclosed herewith, in reply, in which he states that he has received a similar representation from the German Chargé d'Affaires in Washington on the subject, and transmits a copy of his reply thereto.

I have, &c.
(Signed) MICHAEL H. HERBERT.

Inclosure 1 in No. 282.

Mr. Foster to Mr. Herbert.

Sir, *Department of State, Washington, October* 4, 1892.

WITH reference to your note of the 27th September, transmitting copies of correspondence with the German Government relative to the reported intention of the Chief Justice of Samoa to make the registration of land titles in those islands dependent on a previous survey, to be carried out at the cost of the parties interested, I have the honour to inform you that this Government has received a similar representation from Baron Ketteler.

I inclose herewith, for your information, a copy of my reply thereto.

I have, &c.
(Signed) JOHN W. FOSTER.

Inclosure 2 in No. 282.

Mr. Foster to Baron Ketteler.

Sir, *Department of State, Washington, October* 4, 1892.

I HAVE the honour to acknowledge the receipt of your note of the 15th ultimo relative to a proposed Ordinance of the Chief Justice of Samoa, making the registration

of land titles in those islands conditional in each case on a previous survey of the land to be made at the expense of those concerned. You inform me of the intention of your Government to refuse its assent to this measure, and express the hope that the Government of the United States will acquiesce in that view.

Section 7 of Article IV of the Berlin General Act directs the Supreme Court of Samoa to make provision for a complete registry of all valid land titles held by foreigners. It is believed that there might be some justification for requiring a preliminary survey of land, the title of which is to be registered or recorded, provided such survey were necessary in any particular case for its precise description. But only valid titles are authorized to be registered, and by the terms of Article IV of the Treaty, the validity of every foreigner's title to land must be established before the Land Commission and the Supreme Court. No title, therefore, can become the subject of registry until it has been approved by the Commission, and finally confirmed by the Court. It must be presumed that a title thus established will be sufficiently definite, and if a survey had been necessary that it would have been required by the Commission. For that reason, this Government, in concurrence with the Government of Germany, is disposed to refuse its assent to any general requirement making the registry of every title to land conditional upon a preliminary survey. The American Consul will be instructed accordingly.

Accept, &c.
(Signed) JOHN W. FOSTER.

No. 283.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, October* 17, 1892.

I AM directed by the Earl of Rosebery to transmit to you herewith a copy of a letter which the President of the Municipal Council at Apia has addressed to the Governments of the three Treaty Powers respecting the audit of the accounts of the Municipality and of the Samoan Government respectively.*

The accompanying copies of despatches, as marked in the margin,† will put you in possession of the views held by the Governments of Germany and of the United States in regard to this question.

Baron von Pilsach suggests that the difference of opinion which has arisen between himself and the members of the Municipal Board on this subject could be met by keeping the revenues of the Municipality distinct from those of the Government.

It appears to Her Majesty's Government that this would be the best course to adopt in the matter, and in this view the United States' Government are also disposed to agree.

Should it, however, be found impossible to come to an arrangement in the sense proposed, Lord Rosebery thinks that, as stated by the German Minister for Foreign Affairs in his note of the 15th ultimo, the question should be settled by the Chief Justice, in accordance with the provisions of the Final Act.

I am to instruct you to join your German and American colleagues in a collective communication to Baron Senfft von Pilsach to the above effect.

I am, &c.
(Signed) T. H. SANDERSON.

No. 284.

Thr Earl of Rosebery to Mr. Herbert.

Sir, *Foreign Office, October* 18, 1892.

I HAVE received your despatch of the 28th ultimo, forwarding copy of a note from Mr. Foster, in which he declared himself disinclined to further oppose the resignation of Baron Senfft von Pilsach.

I have to request you to inform the Secretary of State, in reply, that, in the month of August last, my predecessor expressed his concurrence in the proposal of the

* No. 243. † Nos. 268 and 275.

German Government, that Baron von Pilsach's resignation of his appointment as President of the Municipal Council at Apia should not be accepted. For the present, therefore, the question must be regarded as settled in that sense.

You may, however, add that in the event of Baron von Pilsach again tendering his resignation, later information which has been received in regard to the state of affairs in Samoa might warrant a reconsideration of the question.

I am, &c.
(Signed) ROSEBERY.

No. 285.

Mr. Herbert to the Earl of Rosebery.—(Received October 20.)

(Extract.) *Washington, October 6, 1892.*

MR. FOSTER told me this morning that he had carefully read Consul Cusack-Smith's despatch of the 3rd August in regard to the financial administration of Samoa, which, in accordance with your Lordship's instructions, I had communicated to him confidentially the day before, and that it only strengthened the opinion expressed in his note to me of the 27th ultimo, that it would be advisable to accept Baron von Pilsach's resignation. He went on to say that he had so informed the German Chargé d'Affaires, and that he hoped your Lordship would take the same view of the matter, and would support his representation to the German Government.

No. 286.

Mr. Herbert to the Earl of Rosebery.—(Received October 24.)

My Lord, *Washington, October 13, 1892.*

WITH reference to my telegram of to-day, I have the honour to inclose copy of a note which I have received from Mr. Foster, containing his reply to the proposal of the German Government to send ships of war to Samoa in view of the disturbed state of affairs there.

I have, &c.
(Signed) MICHAEL H. HERBERT.

Inclosure in No. 286.

Mr. Foster to Mr. Herbert.

Sir, *Department of State, Washington, October 12, 1892.*

I HAVE the honour to acknowledge receipt of your note of the 6th instant in regard to the proposal of the German Government, in view of the disturbed state of affairs in Samoa, to send one or two men-of-war there to protect life and property.

While the General Act of Berlin is silent as to the naval force to be maintained by the three Powers in the Samoan waters, yet, in view of the proposal of this Government, at the first Samoan Conference in Washington, the 25th June, 1887, looking to the keeping of a man-of-war of each Power alternately in those waters for four months in each year to assist in maintaining the established Government there, and to preserve peace and order, this Government is not disposed to object to such action on the part of the German Government as may tend to observe the spirit of the engagements equally assumed by the three Powers. Nothing, however, in the present situation in Samoa, so far as it is here apparent, suggests the necessity of more than one vessel of either Power being dispatched to those waters.

No communication on the subject has been received by me from the Imperial German Chargé d'Affaires, but should he bring the question to my attention, I shall be happy to answer him in the same sense.

I have, &c.
(Signed) JOHN W. FOSTER.

No. 287.

The Earl of Rosebery to Sir E. Malet.

(Telegraphic.) *Foreign Office, October* 24, 1892.

IN connection with my despatch of the 14th instant, you should inform German Government that, in order to insure united action, Her Majesty's Government are dispatching one man-of-war to Samoan waters with a view to the protection of life and property.

Her Commander will be instructed to act in concert with the naval officers of the two other Treaty Powers employed on a similar duty.

No. 288.

The Earl of Rosebery to Mr. Herbert.

(Telegraphic.) *Foreign Office, October* 24, 1892.

YOUR telegram of the 13th instant.

You should inform American Government that, in order to insure united action, Her Majesty's Government are dispatching one man-of-war to Samoan waters with a view to the protection of life and property.

Her Commander will be instructed to act in concert with the naval officers of the two other Treaty Powers employed on a similar duty.

No. 289.

The Earl of Rosebery to Consul Cusack-Smith.

(Telegraphic.) *Foreign Office, October* 24, 1892.

WITH reference to my telegram of the 6th instant, one ship of war is being dispatched by each of the three Treaty Powers to Samoan waters with a view to protect life and property.

The Commanding Officers of these vessels will be instructed to act in strict concert.

No. 290.

Mr. Herbert to the Earl of Rosebery.—(Received November 4.)

(Telegraphic.) *Washington, November* 4, 1892.

I AM informed by Mr. Foster that he has addressed a note to the German Chargé d'Affaires, stating that until further information is received as to the situation in Samoa, the United States' Government cannot reply to the German suggestions for the restoration of peace in that island.

One United States' ship will, however, be at once dispatched to Samoa to concert with the British and German vessels in the protection of life and property, should the occasion arise. Mr. Foster is anxious to avoid the precipitation of actual hostilities until he has received the information which he is expecting from the United States Consul; and he is of opinion that any action taken by the vessels should be first unanimously agreed upon by the Consuls of the three Treaty Powers.

No. 291.

Mr. Herbert to the Earl of Rosebery.—(Received November 7.)

My Lord, *Washington, October* 26, 1892.

I HAVE the honour to inclose copy of a note which I have addressed to Mr. Foster, in which I have informed him of the intention of Her Majesty's Government to send a ship of war to Samoan waters, and of your Lordship's desire

that joint action should be agreed upon by the three Treaty Powers in regard to the dispatch of ships of war to Samoa.

I have, &c.
(Signed) MICHAEL H. HERBERT.

Inclosure in No. 291.

Mr. Herbert to Mr. Foster.

Sir, *Washington, October* 25, 1892.

WITH reference to your note of the 12th instant and to our subsequent conversation respecting the proposal of the German Government in regard to the dispatch of ships of war to Samoan waters, I have the honour to inform you that I have received a telegram from the Earl of Rosebery in which his Lordship states that Her Majesty's Government are sending one ship of war to Samoa for the protection of life and property there, and that her Commander has been instructed to act in concert with the American and German Naval officers who may be employed on a similar duty.

His Lordship is very anxious that the concert of the three Treaty Powers should be maintained in Samoa, and he is therefore not disposed to raise the point as to whether one or two ships should be sent there so long as joint action is taken and joint instructions are agreed upon by the three Governments.

I have, &c.
(Signed) MICHAEL H. HERBERT.

No. 292.

Consul Cusack-Smith to the Earl of Rosebery.—(Received November 10.)

My Lord, *Samoa, October* 11, 1892.

I HAVE the honour to inclose a copy of an appeal from Baron Senfft von Pilsach, the President of the Municipal Council of Apia, to be informed by cablegram that the Treaty Powers permit him to leave Samoa, in pursuance of his resignation forwarded to the Powers last April, or that in the alternative his salary will be guaranteed and paid by the said Powers.

At the same time, Baron Senfft von Pilsach requests me to report to your Lordship upon the subject of his appeal.

I cannot too earnestly express my hope that Her Majesty's Government will not agree to guarantee the salary of the Municipal President.

As far back as February 1891, in my despatch of the 16th of that month, I expressed my conviction that without great care the very catastrophe which has now befallen the Municipal finance was certain to occur.

I believe that, in accordance with my suggestion, the President was warned that after the first year of his work he must look only to Samoa for his salary in accordance with section 5 of Article V of the Berlin Final Act.

When in April 1892 the President, contrary to the unanimous advice of the Consuls and to the wishes of the white residents in Apia, transferred practically the whole of the Municipal revenues to the Samoan Government, it was impossible not to foresee that he was deliberately throwing away the only source of his own salary.

As I have stated in my despatches of August and September 1892, the President is alone to blame, and responsible for the financial ruin which is the result of his administration of the funds not only of the Municipal Council, but also of the Samoan Government.

When the Consuls handed over the Treasury to Baron Senfft von Pilsach in 1891 there was a reserve of about 1,000*l.* to the credit of the Municipality of Apia.

Had the revenues of the Municipality been retained, as provided by the Berlin Treaty, there should now be 2,000*l.* in reserve after carrying out those vitally important improvements upon which the expansion of trade so greatly depends.

In his appeal Baron Senfft von Pilsach most illogically seeks to throw the blame of the present bankruptcy upon the Municipal Council, because they defer the collection of the house and property tax until they know whether the Powers will restore to the Municipality the revenues which the President and the Chief Justice diverted to the Samoan Government. As this tax was only estimated by the German

Consulate in Apia to amount to 400*l.*, the contention of the President that the delay in its collection is the cause of the collapse of the Municipal finance can hardly be treated seriously.

I have the honour to inclose an extract from the Minutes of the Municipal Council referring to the delay. On the occasion of a previous Resolution deferring the collection of this tax, the Consuls sitting as the Consular Board suggested, as an amendment under section 3, Article V, that the tax should be collected from the 1st July, 1892.

Had the President and the Chief Justice upheld the suggestion of the Consuls, the tax would have been collected in July. But the Chief Justice struck out the amendment suggested by the Consuls, ordered that the tax should be collected, but left the date to be fixed by the Municipal Council.

The consequence is that this date has never yet been fixed.

The President says that the Treaty in effect provides no remedy to compel the Municipal Council to proceed with the collection of the tax, but there is no doubt that section 4 of Article III provides an efficient remedy, and no change in the Treaty is requisite.

I repeat what I stated in my despatch of the 13th September, 1892, that no improvement can take place in the absolute deadlock, both in the Municipal and Samoan Government affairs if Baron Senfft von Pilsach is retained in office. It is not the fault of the Treaty—which is perfectly workable—but of the two men who have administered it.

The salary of the Chief Justice, under section 2 of Article III, will now have to be paid by the Powers, as there is no money in the Treasury for Samoan Government purposes, and under the present Administration no likelihood of their being sufficient.

In my despatch above mentioned I said, "The present financial deadlock will in no way be remedied by any readjustment of taxation and revenue between the Samoan Government and the Municipality," and the President in his appeal used almost the same words.

Should the President leave Samoa before the answer of the Powers is received, under section 2, Article V of the Berlin Final Act, the Municipal Council could "elect a Chairman *pro tempore*," and it would only remain to make temporary arrangements as to the Treasurership.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

Inclosure 1 in No. 292.

Baron Senfft von Pilsach to Consul Cusack-Smith.

Sir, *Apia, October* 10, 1892.

I HAVE the honour to inform you that, at the expiration of the last month, the funds that I held for the use of the Municipal Council of Apia, amounted to less than the sum due for my salary for that month. Consequently I have been unable to make any payment due on the 1st instant, for under the Berlin General Act, the salary of the President is the first charge on the revenues of the Municipality.

Under the same Treaty, the authority that shall provide for the collection of the public revenue of the Municipality of Apia is the Municipal Council.

The Treaty does not provide for any representation of the Council in the performance of the aforesaid function, in case that body omits to discharge the same. Moreover, no means have been provided for compelling the Council to fulfil the duties imposed on it by the Treaty if it refuses to do so, even in open opposition to the other authorities participating in the Municipal Administration.

As it is known to you, the Municipal Council has refused to provide for the collection of a tax, which, according to the Treaty, ought to have been levied a long time ago, on the ground that the members had not yet received an answer to a complaint which had been submitted to the Governments of the three Treaty Powers in April last.

Since I am not informed whether or not, and when such answer can be expected, I do not know if and when the Council will again be inclined to procure the means for carrying on the Administration of the Municipal District. But there is every reason to believe that even if the answer in question will be received, it will not alter

the present attitude of the Council, unless it should be in conformity with the views of the majority of that body.

Thus it appears to me that the significance of the present difficulty is greater than the actual circumstances which have led up to the same. It shows that the institutions existing under the Berlin Treaty do not afford any guarantee against complications of this kind being brought about at any time. And so, in fact, the very existence of the Municipal Administration depends on the disposition of the majority of the Council.

Provided an arrangement of this nature had not been contemplated by the Berlin Conference, perhaps the present emergency will induce the Governments of the Treaty Powers to insert an amendment in the Treaty adapted to prevent the wilful obstruction, and eventually the destruction of the Municipal Administration by those very parties who are bound under oath to do their best towards its maintenance. The purpose of this letter is not to make proposals in the direction of such an amendment. I restrict myself to pointing out that side of the affair where it affects me personally.

From my above statements I draw the conclusion that not only at present I am unable to get my compensation, due since the 1st September last, but also there is no security for its payment in future. According to the Berlin Treaty the funds which I hold for the use of the Municipal Council of Apia constitute the only source of my salary.

In October 1891, and again in April 1892, I have in urgent terms requested the permission of the three Signatory Powers to resign my present office, stating in both cases that for several reasons I could not see any possibility of a successful performance of my official duties.

To the first request, I received a declining answer from Her Britannic Majesty and the Imperial German Majesty's Government. To the second despatch I am still without any reply.

Before accepting my position I have not been required to enter into any engagement as to the length of time I had to remain in the office.

This being so, I doubt if I am formally obliged to await the permission I have requested from the three Governments provided that King Malietoa should accept my resignation. I have done so hitherto under the impression that the contrary would involve a want of regard towards the three Governments which could not be justified but in the case of absolute necessity. But I hardly think that I can be expected to wait any longer on the decision of the Governments at the risk of losing meanwhile the means of subsistence for my family and myself.

As I have intimated, I cannot expect an improvement of my situation in consequence of any alteration of the distribution of the Public Revenue between the Samoan Government and the Municipality of Apia. It is the autonomy of the Municipal Council in regard to the collection of the Revenue which will always expose the President to experiences like the present.

Since there is little time remaining before the mail goes, I shall myself submit copies of this letter to the three Governments concerned, but I shall be greatly obliged if, at the same time, you will report to Her Britannic Majesty's Government on the subject, Perhaps the Governments will then inform me, by way of a cablegram, either that I am allowed to leave Samoa, or that they themselves will protect me from pecuniary loss.

Kindly treat this communication confidentially except towards the Chief Justice and your colleagues.

I have, &c.
(Signed) FRHR. SENFFT VON PILSACH.

Inclosure 2 in No. 292.

Extract from Minutes of the Municipal Council of Apia.

Special Meeting, Friday, September 16, 1892.

PROPOSED by M. Grevsmühl, seconded by M. Osenbrüg :—

That the collection of Tax C 5 be deferred until an answer be received from the three Powers to the protest against the transference of the customs duties.

Carried by 5 against 1 vote.

Proposed by M. Grevsmühl and seconded by Mr. Carr:—

That a copy of the Minutes of this meeting be forwarded to Her Britanni Majesty's Consul, Imperial German Majesty's Consul, and United States' Vice-Consul General, with a polite request to forward the same to their respective Governments.

Carried unanimously.

No. 293.

The Earl of Rosebery to Mr. Herbert.

Sir, *Foreign Office, November* 10, 1892.

I APPROVE the note which you have addressed to the United States' Government, as reported in your despatch of the 26th ultimo, respecting the dispatch of ships of war to Samoa.

I am, &c.
(Signed) ROSEBERY.

No. 294.

Mr. B. Haggard to the Earl of Rosebery.—(Received November 12.)

My Lord, *Apia, Samoa, October* 11, 1892.

I HAVE the honour to inform you that, in accordance with the provisions of Article IV of the Berlin Final Act, the Samoan Land Commissioners have reported up to yesterday, the 10th October instant, 748 claims. All the claims arising out of the Municipality of Apia were heard and reported before the 1st October instant; they number 626. There are other claims outside of the Municipality also reported; but of the 748 claims reported by the Commissioners, 265 were disputed, and 483 undisputed.

Owing to the absence and illness of my original colleagues, and the non-arrival of my recent colleagues, we were able, between the 1st October, 1891, and the 1st October, 1892, to sit hearing and reporting claims for only 207 working days. The 1st October, 1891, was the first day we could sit hearing claims, according to the requirements of Article IV of the Berlin Final Act (that we could as a complete Commission), hear claims and report them, viz., being four months from the 1st June, 1891, when the Commission was formed.

Many of the contested claims have taken days to hear, and uncontested claims have also in many cases given much trouble; some have been disposed of rapidly. I am happy to think no time has been wasted by long discussions between the Commissioners themselves, as to their decisions, on making the Reports. Complete harmony has reigned between the various Commissioners all along in that regard. As the Commissioners read Section 6, Article IV, Berlin Final Act, there are only two (both facsimile) cases to go for final decision to the Chief Justice of Samoa. They are reported together. There is really only one case, as we think, to go on appeal.

I have, &c.
(Signed) BAZETT M. HAGGARD.

No. 295.

The Earl of Rosebery to Consul Cusack-Smith.

(Telegraphic.) *Foreign Office, November* 12, 1892.

WITH reference to my telegram of the 24th ultimo, no naval action is to be taken unless the unanimous sanction of the Consuls of the Treaty Powers has been obtained beforehand. The Commander of Her Majesty's ship "Ringarooma" has received instructions to this effect.

No. 296.

Sir J. Pauncefote to the Earl of Rosebery.—(Received November 24.)

My Lord, *Washington, November 15, 1892.*

WITH reference to Mr. Herbert's despatch of the 4th instant, I have the honour to inform your Lordship that Mr. Foster told me yesterday that the United States' Government intended to send the "Alliance" to Samoa for the protection of life and property.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

No. 297.

Count Hatzfeldt to the Earl of Rosebery.—(Received November 28.)

(Translation.)
My Lord, *German Embassy, London, November 28, 1892.*

I HAVE been informed that the British Ambassador at Berlin, Sir E. Malet, has informed the Imperial Government that the Government of Her Britannic Majesty have sent one of their ships of war to Samoa in order to protect the lives and property of the foreigners there, in conjunction with the ships of the other Powers.

I am directed to inform your Lordship, in connection with this, that the United States' Government have made arrangements to send one of their ships to Samoa, although they do not consider the situation more serious than formerly. At the same time, they have instructed the Commander of their vessel to act in concert with the British and German Commanders. The German vessel now present at Apia is the Imperial cruizer "Bussard."

My Government confidently hope that the presence of the ships of war will have a quieting effect on affairs in Samoa; but they are of opinion that no permanent success will be attained in this direction until the natives have been completely disarmed.

I have, &c.
(Signed) v. HATZFELDT.

No. 298.

Consul Cusack-Smith to the Earl of Rosebery.—(Received November 30.)

(Telegraphic.) *Samoa, November 12, 1892.*

I RECEIVED on the 10th instant your Lordship's telegrams of the 6th and 24th ultimo.

The bad season has begun, and after the middle of next month it will not be safe for vessels of war to remain here. I do not think that any action on the part of the naval officers can improve matters while M. Cedercrantz and Baron von Pilsach continue in office. Life and property are not in danger.

I would recommend the withdrawal of the ships until the hurricane season is over.

No. 299.

The Earl of Rosebery to Sir J. Pauncefote.

(Telegraphic.) *Foreign Office, November 30, 1892.*

CONSUL Cusack-Smith telegraphs that the hurricane season renders it unsafe for vessels of war to remain at Samoa after the middle of next month. In his opinion, there is no present danger to life or property.

Under these circumstances, it would, in my judgment, be expedient to withdraw the men-of-war, and postpone any joint action until after the hurricane season.

Ascertain whether the United States' Government concur in this view.

I have made a communication in the same sense to the German Government.

No. 300.

The Earl of Rosebery to Count Hatzfeldt.

M. l'Ambassadeur, *Foreign Office, November* 30, 1892.

WITH reference to the note which your Excellency did me the honour to address to me on the 28th instant in regard to the concerted action in Samoa of the British, German, and American ships of war, I have the honour to inform you that I have this day received a telegram from Her Majesty's Consul at Apia, reporting that, in consequence of the bad season having set in, it would not be safe for men-of-war to remain in Samoan waters after the middle of December, and recommending that they should be withdrawn until after the hurricane season is passed.

The Consul considers that there is at present no danger to life and property, and that the dispatch of vessels of war might, therefore, still be deferred.

In view, therefore, of the danger to which the ships would be exposed, I am of opinion that it would be advisable to postpone any joint action for the present, and to arrange that the ships should be withdrawn until the bad season is over.

I shall be glad if your Excellency will communicate with the German Government on the subject, and will inform me at as early a date as possible whether they would be prepared to join in giving instructions in this sense to the naval Commanders, and, in the meantime, I am telegraphing in this sense to Washington.

I have, &c.
(Signed) ROSEBERY.

No. 301.

Sir J. Pauncefote to the Earl of Rosebery.—(Received December 2.)

(Telegraphic.) *Washington, December* 1, 1892.

MR. FOSTER approves in substance the proposal contained in your Lordship's telegram of the 30th ultimo. He is willing to agree to send instructions to the Commanders of men-of-war in Samoan waters permitting them to remove their ships to some safer station until the bad season is over, provided they should all be of opinion that no present danger exists to life and property. The concurrence of the German Government, at whose instance the United States' Government consented to send a ship to Samoa, would, however, have to be obtained first.

No. 302.

Sir J. Pauncefote to the Earl of Rosebery.—(Received December 6.)

My Lord, *Washington, November* 25, 1892.

ON receipt of your Lordship's despatch of the 19th August last on the subject of the enforcement of the Samoan Customs Ordinance of 1892, Mr. Herbert addressed a note to the United States' Secretary of State in the terms indicated in your Lordship's above-mentioned despatch, transmitting at the same time copies of the printed correspondence inclosed therein.

I have now the honour to inclose copy of Mr. Foster's reply.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 302.

Mr. Foster to Sir J. Pauncefote.

Sir, *Department of State, Washington, November* 22, 1892.

IN reply to Mr. Herbert's note of the 1st September, 1892, relative to an Ordinance of the Samoan Government dated the 25th April last "regulating the collection and arrangement of the Revenue of Customs," I have the honour to inform you that this Government has also received a copy of this Ordinance from the President of the Municipal Council, with the request that it would "order the necessary steps to

be taken for the purpose of rendering applicable the provisions of said Ordinance to the United States' citizens living in Samoa." I send you herewith a copy of a note dated the 13th August from the German Chargé d'Affaires in this city regarding this subject and of my reply thereto of this date.* You will observe that the opinion is expressed that, in view of the fact that the three Treaty Powers are agreed in treating as a nullity the opinion of the Chief Justice of Samoa of the 28th March last, with respect to the revenues, and will undoubtedly soon make some concurrent expression of that view to the proper Samoan officials, no further act with respect to this Ordinance, for the present at least, seems to be necessary.

I have, &c.
(Signed) JOHN W. FOSTER.

No. 303.

Sir J. Pauncefote to the Earl of Rosebery.—(Received December 7.)

(Telegraphic.) *Washington, December 7, 1892.*

SAMOA.

United States' Government yesterday received following telegram from their Consul, dispatched from Auckland:—

"Chief Justice has been notified by Consuls. He refuses compliance with direction of the Treaty Powers in the matters of survey and registration fees."

No. 304.

Sir J. Pauncefote to the Earl of Rosebery.—(Received December 8.)

My Lord, *Washington, November 25, 1892.*

ON the receipt of your Lordship's despatches of the 12th August last and 17th ultimo, on the subject of the import and export duties in Samoa, Mr. Herbert duly addressed notes to the United States' Secretary of State in the sense indicated in your Lordship's above-mentioned despatches, and transmitted at the same time copies of the inclosures contained therein.

I have now the honour to inclose copy of a note, and of its inclosures, which I have received in reply from Mr. Foster.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 304.

Mr. Foster to Sir J. Pauncefote.

Sir, *Department of State, Washington, November 22, 1892.*

WITH reference to Mr. Herbert's notes of the 26th August and the 2nd November last, transmitting copies of a verbal communication from the German Embassy in London to Her Majesty's Government, and of Lord Salisbury's reply, relative to the difference of opinion which has arisen as to the apportionment of the import and export duties in Samoa, I have the honour to send you herewith a copy of a similar communication which I have received from the German Chargé in this city, and of my reply thereto. You will observe that the views of this Government substantially accord with that of Her Majesty's Government as expressed in Lord Salisbury's note to Count Hatzfeldt dated the 12th August last.

I have, &c.
(Signed) J. W. FOSTER.

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* Not printed.

Inclosure 2 in No. 304.

Memorandum dated July 14, 1892.

[Not printed.]

Inclosure 3 in No. 304.

Mr. Foster to M. von Holleben.

Sir, *Department of State, Washington, November* 22, 1892.

BARON VON KETTELER'S Memorandum of the 14th July last, expressing the views of the Imperial Government upon the difference of opinion which has arisen as to the apportionment of the import and export duties in Samoa, has had my careful consideration.

On the 2nd instant I also received from the British Chargé d'Affaires a copy of Lord Salisbury's note of the 12th August to Count Hatzfeldt, expressing the views of the British Government upon the same subject.

Section 4 of Article III of the Berlin General Act provides that the Supreme Court of Samoa shall have jurisdiction of all questions arising under its provisions. But its competence to render a decision with respect thereto is believed to be limited to suits or references regularly before it in accordance with the specific provisions of the Act. As a Court it is bound to proceed in accordance with usual judicial procedure, otherwise parties in interest would receive no hearing, and matters of the greatest importance, as in this instance, might be finally settled in proceedings entirely *ex parte;* this Government, therefore, is disposed to agree with the Imperial Government and with the Government of Great Britain, that the opinion of the Chief Justice of Samoa with respect to the revenues, given the 28th March last, was not rendered in the line of the duty of the Court, or in accordance with the terms of the Treaty, and that being extra-judicial it ought to be treated as a nullity. The Government of the United States will be pleased to join in any concurrent communication of this view to the Chief Justice or other officials of Samoa, as may be deemed most expedient.

As regards the correct interpretation of section 3 of Article VI of the Treaty, it must be admitted that its language is ambiguous, and that it is not free from doubt whether the import and export duties belong by its terms exclusively to the Samoan Government, in accordance with the Chief Justice's latest opinion, or exclusively to the Municipality, in accordance with his earlier opinion, or partly to each. Practically however, this Government is impressed with the belief that there ought to be some fair division of the revenue between the Government and the Municipality, and that its exclusive assignment to either would be essentially unjust to the other. If the terms of the Treaty should be finally held to require the latter, then, in the opinion of this Government, the Treaty ought to be amended in that regard. But I join in the hope expressed by the Government of Great Britain that the "contending parties may still be able to arrive at a common understanding upon this point which shall be alike satisfactory to themselves and to the Treaty Powers."

Accept, &c.

(Signed) J. W. FOSTER.

No. 305.

Consul Cusack-Smith to the Earl of Rosebery.—(Received December 12.)

My Lord, *Samoa, October* 19, 1892.

IN my despatch of the 1st March last I had the honour to report that, in my opinion, the enacting, by the Chief Justice of Samoa, of "The Real Property Ordinance, 1891," was *ultra vires*, and the whole Ordinance consequently invalid.

Under Part III, section 5, the Chief Justice has construed the words "a diagram of the land on such scale as the Court may from time to time direct," so that a survey by a Government Surveyor is in every case necessary before registration of title can be effected.

The German Consul, under instructions from his Government, has informed the Chief Justice and German subjects that the fees for such surveys are protested against, and need not be paid.

These fees are in the nature of a tax, and could only be imposed by the Samoan Government with the consent of the Consuls as provided in section 2, Article VI of the Berlin Final Act.

The survey is quite unnecessary, and I hope your Lordship will send me instructions in similar terms to those issued by the German Government.

Under the most-favoured-nation clause of the British Treaty of 1879 with Samoa, British subjects cannot be made to pay these survey fees if German subjects are exempt, and I am entering a provisional protest, of which I inclose a copy.

I would also refer to the scale of fees set out on page 36 of the same Ordinance.

On every claim to land sent up to the Chief Justice by the Land Commission the claimant is required, besides all the heavy legal expenses he has incurred before the Land Commission, to pay at least 3*l.* in fees besides hearing fees, which together will probably amount to 5*l.* per claim.

This does not include the heavy fees fixed for the extra Government survey to which the German Government has objected.

It has been widely stated, I am credibly informed, upon the authority of Dr. Hagberg himself, that that gentleman, who is Registrar of the Supreme Court, and who, contrary to the provisions of the Berlin Treaty, is drawing a fixed salary from the Samoan Government, expects to put into his private pocket, in addition to his salary, 3,000*l.* at least from the fees for registering the claims to land sent up from the Land Commission.

This possibility is to be regretted; the fees should go to the bankrupt Samoan Government.

I would suggest that if your Lordship agrees that the Chief Justice cannot enact laws on his own responsibility, but that his powers are regulated in this respect by section 8 of Article III of the Berlin Final Act, then an intimation from Her Majesty's Government to that effect would dispose of "The Real Property Ordinance, 1891," *in toto*, and dispose of the difficulty that has arisen as to the fees for survey.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

Inclosure in No. 305.

Consul Cusack-Smith to the Chief Justice of Samoa.

Sir, *Samoa, October* 19, 1892.

I HAVE the honour to inform you that the Imperial German Consul has stated that his Government has declared that German subjects need not pay the fees for surveys required by you, as Chief Justice of Samoa, before claims to land can be registered in the Supreme Court.

So long as German subjects are exempt from these payments, I would point out to you that, under Article II of the British Treaty with Samoa of 1879, British subjects must also be exempt.

I am referring the matter by the next mail to Her Majesty's Government.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

No. 306.

Consul Cusack-Smith to the Earl of Rosebery.—(Received December 12.)

My Lord, *Samoa, October* 21, 1892.

IN my despatch of the 3rd August I had the honour, in referring to the President Senfft von Pilsach's refusal to permit the Consuls to inspect the Quarterly Financial Reports, which, under section 5, Article V, of the Berlin Final Act, he has to furnish to King Malietoa, to draw your Lordship's attention to the evident intention of Baron Senfft von Pilsach to avoid any inspection of his accounts. On the 19th October I asked him to kindly furnish me with copies of the three Quarterly Reports which have

appeared since he last forwarded copies to me, as I wished to send them to your Lordship. He replied that not even the Signatory Powers, except by a joint instruction, can demand to see his accounts, although he apparently overlooks intentionally the fact that, in the imminent event of a deficiency in the salary of the Chief Justice, Her Majesty's Government will be called upon to make good one-third of the deficiency, without even the satisfaction of seeing how the deficiency occurs.

I know that several items of expenditure are entered in a misleading manner. The purchase of the "Samoa Times" is, I am informed, entered as "special investment by order of the King."

The Marshal and Registrar of the Supreme Court of Samoa, who, contrary to section 1, Article III, draw ample salaries from the Samoan Government in addition to the fees, could not draw salaries as Marshal or Registrar, so the Marshal, I am informed on the best authority, draws his salary as Secretary for Native Affairs, an office which, if it exists at all, is not filled by him, and the Registrar draws salary as Secretary to the Chief Justice.

I only mention these items to show the necessity for the accounts of the Samoan Government, which has been brought to insolvency by the unfortunate administration of Baron Senfft von Pilsach, being thoroughly examined and audited.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

Inclosure in No. 306.

Baron Senfft von Pilsach to Consul Cusack-Smith.

Sir, *Apia, October* 21, 1892.

IN reply to your letter, dated the 19th instant, relating to my Quarterly Reports on the Government's finance, I have the honour to inform you that I have resolved to discontinue the communication of these Reports to the Consular Representatives in Samoa unless I might be directed otherwise through a joint instruction of their Governments.

From the fact that the Berlin Treaty does not contain any provisions establishing a regular control of my financial administration on the part of the three Signatory Powers, I must conclude that such a control has not been contemplated by them. This refers to my quarterly statements; but, at the same time, I wish to express the opinion that the holder of my office is obliged to acquaint the Governments, directly or through the intermediation of their Consular Representatives, with any extraordinary situation affecting their eventual interest in the solvency of the Samoan Government. I may mention that I have done so in February last with reference to the difficulty of collecting the Samoan capitation tax.

I regret that, for these reasons, I cannot meet your wishes. Upon a corresponding request of the Imperial German Consul, I have communicated my views to him on the 2nd August last.

I have, &c.
(Signed) FRHR. SENFFT VON PILSACH.

No. 307.

Consul Cusack-Smith to the Earl of Rosebery.—(Received December 12.)

My Lord, *Samoa, November* 4, 1892.

REFERRING to my despatch of the 19th October, I have the honour to inclose the reply of the Chief Justice. It is not necessary for me to comment upon the position he thereby assumes, of being able to entirely disregard the remonstrance of any of the Treaty Powers.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

Inclosure in No. 307.

M. Cedercrantz to Consul Cusack-Smith.

Sir, *Mulinuu, October* 21, 1892.

I HAVE the honour to acknowledge the receipt of your letter of the 19th instant, by which you inform me that the Imperial German Consul has stated that his Government has declared that German subjects need not pay the fees for surveys required by me as Chief Justice of Samoa before claims to land can be registered in the Supreme Court.

You further point out to me that, under Article II of the British Treaty with Samoa of 1879, so long as German subjects are exempt from these payments British subjects must also be exempt, and you state that you are referring the matter by the next mail to Her Majesty's Government.

In reply hereto, I wish to inform you that German subjects are not exempt from these payments.

I have, &c.

(Signed) C. CEDERCRANTZ, *Chief Justice.*

No. 308.

Consul Cusack-Smith to the Earl of Rosebery.—(Received December 12.)

(Extract.) *Samoa, November* 8, 1892.

I HAVE the honour to inform you that on the 5th November I received a formal request from the Municipal Council of Apia that I would forward to Her Majesty's Government the inclosed copy of Minutes passed by that body on the 16th September, and to which I have already drawn attention in my despatch of the 11th October.

The Council and the general body of the white residents impatiently look for the definite decision of the Signatory Powers.

Inclosure 1 in No. 308.

Minutes of Special Meeting of the Municipal Council of Apia, September 16, 1892, 10 A.M.

Present:

President, Messrs. Grevsmühl, Haidlen, Osenbrüg, Carr, and Leonhard.

Order of the Day.

1. READING the Minutes of last meeting.
2. Collection of tax C 5.

1. Minutes of last meeting were read and confirmed.

2. *The President* explained that at the last meeting the deliberation upon the collection of C 5 tax had not been completed; the proposal of the President not having been seconded, and no motion having been forwarded by the Council's members. Perhaps they had considered the matter in the meantime, and would now arrive at a conclusion.

M. Grevsmühl remarked that, in his view, the President could not participate in the consideration of this question. No member was allowed to deal with matters in which he was personally interested, and the President was interested in the collection of tax C 5, because his salary was the main charge upon the revenue of the Municipality. The President replied: If M. Grevsmühl's remark referred to the President's motive for bringing the matter before the Council, he left it with the members to judge of such a supposition; but, if M. Grevsmühl only referred to the fact of the President's salary being dependent upon the condition of the municipal finances, and concluded therefrom that the President should not join in the deliberation nor in the voting on financial questions, the consequence of this opinion would be, that the President could not deal with many matters which, on the contrary, he felt obliged to deal with.

M. Grevsmühl then raised the question as to whether the Chairman had any right of proposing motions; such was not the case in other countries. The President

answered that, according to the Berlin Treaty, the President possessed all rights given to members of the Council. Besides, to-day, he was not going to forward a motion, but left it to the members to do so.

M. Osenbrüg stated that before tax C 5 should be collected, some answer should be received from the three Powers. The resistance of the Council against the collection of this tax might influence the Powers to give an answer.

M. Grevsmühl reminded that, under an existing rule of the Council, no motion that had not been [?] could be brought forward again within a certain period.

The President repeated that there was no question of his last motion at present.

Proposed by M. Grevsmühl, seconded by M. Osenbrüg:—

"That the collection of tax C 5 be deferred until an answer is received from the three Powers to the protest against the transference of the customs duties."

M. Grevsmühl wished it to be recorded that his motive for bringing forward this motion was, that the salary of the President was too high for the Municipality under its present income.

M. Osenbrüg stated his reasons for seconding the motion as follows: that the Chief Justice, in his decision, mentioned that he could understand our delay to collect tax C 5, if there were ample funds at our disposal. We are awaiting an answer from the three Powers in order to know what our funds are amounting to.

Motion carried by 5 against 1 vote.

2 (*b*). Proposed by M. Grevsmühl, seconded by Mr. Carr:—

"That a copy of the Minutes of this meeting be forwarded to Her Britannic Majesty's Consul, Imperial German Majesty's Consul, United States' American Vice-Consul-General, with a polite request to forward the same to their respective Governments.

Carried unanimously.

3 (*a*). Current matters.

The President explained that he had informed Mr. Paul verbally of the Council having accepted his tender for the bridge over the Mulivai Creek, but he had told Mr. Paul at the same time that he could not yet instruct him to commence that work, because, at present, no funds were available for the purpose.

M. Grevsmühl stated that Mr. Paul was willing to complete the work without payment at present, and that he, M. Grevsmühl, was willing to guarantee the payment.

M. Grevsmühl's offer was accepted with thanks.

Proposed by M. Osenbrüg, seconded by Mr. Carr:—

"That Mr. Paul be instructed to proceed with the work on the above conditions."

Carried unanimously, the President abstaining from voting.

3 (*b*). On the President's statement that there were not sufficient funds to pay the municipal officers, M. Grevsmühl proposed, and M. Osenbrüg seconded:—

"That the officers be discharged as occasion may require, with the exception of the pilot."

Carried by 3 against 2 votes, the President abstaining from voting.

3 (*c*). Proposed by the President, seconded by M. Osenbrüg:—

"That the transfer of a licence by the proprietor of a tavern to a manager or lessee needs the previous approval of the Council."

Carried unanimously.

3 (*d*). Agreed: That the sum of 10 dollars be awarded to Aitofele for one cocoanut tree and two bread-fruit trees; and the sum of 5 dollars to Sitione for one cocoanut tree; those trees to be cut down for road purposes.

3 (*e*). Agreed: That Mr. Willis' request to occupy the shed at the rear of the "McArthur" premises should be acceded to on payment of 1 dollar per month.

3 (*f*). *M. Grevsmühl* suggested that precautionary measures be taken to prevent the possibility of cholera being introduced by means of the San Francisco mail steamers.

The President stated that the health officer had already drawn his attention to this danger, and they had arranged to confer on the subject on the 19th instant.

(The meeting then closed.)

Read and confirmed,
(Signed) FRHR. SENFFT VON PILSACH.
October 5, 1892.

Inclosure 2 in No. 308.

Extract from the "Samoa Times."

APIA MUNICIPAL COUNCIL.—The ordinary meeting of the Municipal Council was held on Wednesday last, the 3rd November.

Present—The President and Messrs. Grevsmühl, Leonhard, Carr, and Osenbrüg.

Minutes of the 5th and 7th October were read and confirmed.

Letter from the Chief Justice approving of Council's Resolution *re* Riding and Driving Rules of the Road, as against Consular Boards Amendment.

Diversion of Customs Revenue.—The President read a letter from Consul Biermann in reply to an inquiry in which the Consul stated that his Government had advised him that no agreement had been arrived at by the Powers *re* diversion of customs revenue from the Municipality of Apia to the General Government. The President further stated that he had gleaned from a conversation with Consul Biermann, that the three Powers will never arrive at any decision *re* this matter; consequently, it would be well for the Council to face the financial position of the Municipality without further loss of time.

M. Grevsmühl considered that the three Powers must give a decision.

The President wanted to know on what the speaker based this conclusion.

M. Osenbrüg did not see how this question affected the Council's present position.

Re the German Consul's letter, the President pointed out that it was official, and, therefore, reliable, and that the information it contained was, by Consul Biermann's permission, for the Council's consideration. The Councillors were generally of opinion that the question of customs revenue was still in abeyance. The President said that of course the Council might wait for further developments, but what about the municipal creditors?

On the motion of Mr. Carr, seconded by M. Grevsmühl, it was unanimously agreed, after a long and desultory discussion, that the President be requested to write to the British and American Consuls, inquiring if they had any communication from their Government *re* the Customs questions, and, if not, whether they had any reason to believe that the negotiations had terminated; also to write to the German Consul, asking him if he considered the matter concluded by his Government. On this proposal the President declined to vote.

Consular Board Communication.—Letter dated the 24th October was read as far as 2 (*b*), in relation to Resolutions passed at Council meeting of the 16th September as follows:—

Council meeting on the 30th August:

2 (*c*). Approved, *re* abandoning negotiations (Rosenberg); 2 (*d*) noted, *re* tenders for Vaiala Bridge; 2 (*e*) noted, correspondence with J. C. Walker to be laid on the table; 2 (*f*) approved, Asiasi's tender for road making; 2 (*g*) approved; 2 (*h*) approved, purchase of Leapai's Gaol; 2 (*i*) approved, repairs Vaisigago Lower Bridge; 2 (*k*) requests decision of Chief Justice *re* Mulivai Bridge; 2 (*l*) publication in "Royal Gazette."

Council meeting on the 7th September:

4 (*a*). Approved, *re* accepting tender, Mulivai Creek Bridge; 4 (*b*) approved, so far as relating to the gaol; 4 (*d*) approved, Inspecting Committee Mulivai Bridge repairs.

Council meeting on the 16th September:

2 (*a*). Unanimous disapproval, deferring collection of C 5 tax; 2 (*b*) noted, *re* copy of Minutes to be sent to the Powers.

At this stage some of the members became somewhat excited, especially M. Grevsmühl. The President explained that, in *re* the Minutes referred to, he had lost no time in acting upon the Council's Resolution. He had forwarded the same day a copy of the Minutes of the meeting to the Consular Board, and had instructed Mr. Saville to prepare three copies of such Minutes, to be forwarded to the three Powers. These copies were made at once. When no reply came from the Consuls, he (the President) had interviewed one of them (the German Consul) personally, and had drawn attention to this fact, that among the Resolutions before the Board was one to the effect that the three Consuls were requested to forward the Council meeting's Minutes of the 16th September to their respective Governments for perusal by the first outward mail. He (the President) told Consul Biermann that his reason for interviewing him on the matter was to avoid any reproach on the part of the Municipal Council for any delay that might occur. The Consul replied that there could be no reproach, as the President had done all he could have done. M. Grevsmühl wished it placed on record that he took objection to the Council having to ask the Consular Board's permission to write a letter to such Consular Board, and that one month had been lost by want of expedition having been used by the President. M. Grevsmühl went on further to dilate on the point in question, when the President called him to order for his unjustifiable criticisms of his (the President's) actions.

M. Grevsmühl then proposed a vote of no confidence in the President. The President wanted to know if this was on the orders of the day. Mr. Leonhard, by permission, retired at this stage. M. Osenbrüg considered that M. Grevsmühl's remarks were, in the main, correct, and that he should not be called to order. The President stated that members had no right to object to other members being called to order, and proceeded to call M. Osenbrüg to order. M. Grevsmühl then retired, saying that he was not disposed to waste any more time. Mr. Carr then offered his regrets to the President that the meeting should break up in such an unpleasant manner. There being, on Messrs. Grevsmühl and Leonhard's retirement, an insufficient number to form a quorum, the President declared the meeting closed.

No. 309.

Consul Cusack-Smith to the Earl of Rosebery.—(Received December 12.)

(Extract.) *Samoa, November* 8, 1892.

I HAVE the honour to report the arrival on the 3rd November (corrected date) of Her Majesty's ship "Ringarooma."

There is no danger to British life or property at present, and it would be unadvisable to keep the ship here after the end of December, as the hurricane season then begins.

No. 310.

The Earl of Rosebery to Sir E. Malet.

Sir, *Foreign Office, December* 13, 1892.

WITH reference to my despatch of the 2nd instant, I have to state that the German Government have intimated to me their concurrence in the suggestion that the proposed joint action of the Treaty Powers in the Navigators' Islands should be postponed until after the expiration of the hurricane season.

A certain latitude will, however, be left to the German Naval Commander as to withdrawing his ship.

I am, &c.

(Signed) ROSEBERY.

No. 311.

Foreign Office to Admiralty.

Sir, *Foreign Office, December* 13, 1892.

I AM directed by the Earl of Rosebery to request you to inform the Lords Commissioners of the Admiralty that his Lordship sees no objection to the Captain of Her Majesty's ship "Ringarooma" being authorized to retire from Samoa during the hurricane season, provided that there is no danger to life and property.

Lord Rosebery has been in communication with the German and American Governments on the subject, and they have agreed to the postponement of the proposed joint naval action in Samoa until after the hurricane season.

I am, &c.
(Signed) P. CURRIE.

No. 312.

*The Earl of Rosebery to Sir E. Malet.**

Sir, *Foreign Office, December* 17, 1892.

I TRANSMIT herewith, for your information, a copy of a despatch from Her Majesty's Consul at Apia,† reporting that Baron S. von Pilsach declines to furnish the Consuls of the Treaty Powers with copies of his Quarterly Financial Reports unless he receives a joint instruction from the Powers to do so.

I have to request that you will propose to the German Government that joint action should be taken with this object.

I am, &c.
(Signed) ROSEBERY.

No. 313.

Sir J. Pauncefote to the Earl of Rosebery.—(Received December 22.)

My Lord, *Washington, December* 13, 1892.

I HAVE the honour to inclose copy of a Memorandum containing Mr. Foster's suggestions in regard to the amendments required in the Samoan General Act, which he has handed to me and to the German Minister.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 313.

Pro-memorid.

SECTION 1 of Article VIII of the Berlin General Act provides that—

"Upon the request of either Power after three years from the signature hereof, the Powers shall consider by common accord what ameliorations, if any, may be introduced into the provisions of this General Act. In the meantime, any special amendment may be adopted by the consent of the three Powers with the adherence of Samoa."

It is believed that some amendment of the Act, if only for explanatory purposes, is necessary. There are inherent ambiguities in its language; and the usual practical difficulties have arisen which naturally arise in the working of any new organization. These difficulties exist equally with respect to each of the instrumentalities created by the Treaty, such as the Court, the Municipality, and the Land Commission. Mention need only be made, for example, of the pending unsettled questions with respect to the division of the customs revenue, and the supervisory power of the Supreme Court over the findings of the Land Commission, as it is now evident that its work cannot be completed within the time originally limited by the Treaty.

* Also to Sir J. Pauncefote.

† No. 306.

The residents of Apia, in a public meeting last February, asked the three Governments to consider a series of amendments which they proposed. The President of the Municipal Council has recommended changes. The Government of the United States also has at different times been advised by its Representatives in Samoa of amendments deemed necessary or desirable. Any one of the Powers might now, in accordance with the section quoted, require the subject of Treaty revision to be taken into consideration; but it is not believed that the purpose to be accomplished requires a formal Conference such as originated the Treaty, and much less so since there seems to be no necessity for any discussion of its general scope or plan. The purpose desired is not any alteration in its essential features, but merely minor changes in its details. That purpose might be accomplished very simply by an informal conference between the Secretary of State and the Representatives of the three Governments in Samoa.

At the present time each of the three Treaty Powers has a Consular Representative at Apia. They are well informed regarding the necessity and propriety of any proposed changes, and they, aided by the counsel of the Land Commissioners of their respective Governments, could profitably confer with reference to this subject without delay and without expense. Their consideration of the matter should be limited to explanatory amendments and details in the interest of the best practical results under the Treaty. They could, of course, make separate Reports to their respective Governments, but in so far as they were able to agree they should make a joint report of their recommendations. These Reports could be treated as being simply for the information of the Powers, which could reserve to themselves the fullest liberty of final action. It is believed, however, that they would furnish an intelligent basis for the practical consideration of the questions involved.

It is therefore proposed by the United States that instructions be sent by the three Powers to their respective Consular Representatives in Samoa to hold a joint conference at the earliest convenient date after receipt of the instructions, and make a joint Report as to recommendations which they may be able to agree upon respecting the more effective working of the Berlin General Act. When this joint Report is received, it is further proposed that a conference be held between the Secretary of State and the Diplomatic Representatives of Great Britain and Germany with a view to the adoption of such modifications or explanatory declarations of the Berlin General Act as, in the light of the recommendations of the Consuls or other officials, may be deemed advisable.

No. 314.

Sir E. Malet to the Earl of Rosebery.—(*Received December* 29.)

My Lord, *Berlin, December* 19, 1892.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 17th instant, respecting the refusal of Baron Senfft von Pilsach to supply copies of his Quarterly Financial Reports to Her Majesty's Consul in Samoa, and to inform your Lordship that I have this day addressed a note to Baron von Marschall, of which I inclose a copy, in the terms of your Lordship's above-mentioned despatch.

I have, &c.

(Signed) EDWARD B. MALET.

Inclosure in No. 314.

Sir E. Malet to Baron von Marschall.

M. le Baron, *Berlin, December* 19, 1892.

HER Majesty's Consul at Apia has reported to the Earl of Rosebery that, having made application to the President of the Municipal Council to be furnished with copies of his Quarterly Financial Reports, Baron Senfft von Pilsach, in a letter dated the 21st October last, declined to supply such copies without a joint instruction to do so from the Powers.

Baron Senfft added that he had returned a similar answer, under date of the 2nd August last, to a like application on the part of the Imperial German Consul.

Her Majesty's Government are disposed to consider it desirable that the Financial Reports of the President of the Municipal Council should be communicated to the

Consular Representatives of the three Treaty Powers, and I am accordingly directed to propose to your Excellency that joint action should be taken with this object.

I avail, &c.

(Signed) EDWARD B. MALET.

No. 315.

Count Hatzfeldt to the Earl of Rosebery.—(Received December 26.)

(Translation.)

(Extract.) *German Embassy, London, December 22, 1892.*

WITH reference to your Lordship's note of the 12th August, relative to the import and export duties in Samoa, I have the honour to transmit herewith a copy of a despatch from the Imperial Minister at Washington, together with its inclosure, from which it appears that the Government of the United States share the opinion held by the Imperial Government. The American Government would be in favour of a common understanding to be arrived at as to a division of the duties among those interested.

Inclosure 1 in No. 315.

Herr von Holleben to Count Caprivi.

(Translation.) *Washington, November 25, 1892.*

THE Government of the United States agrees with the Imperial Government and with the British Cabinet that the opinion of the Chief Justice, namely, that the proceeds of the import and export duties which have hitherto been levied for the Municipality of Apia were not at the disposal of that body, but of the Samoan Government, according to the provisions of the Samoan Act, was not rendered in the line of the duty of the Court, or in accordance with the terms of the Treaty, and that, being extra-judicial, it ought to be treated as a nullity.

The Government of the United States is therefore ready to join in any communication expressing a definite decision in this sense to the Chief Justice or other officials of Samoa.

The Government of the United States suggests that a practical solution of the question might be found by arriving at an understanding as to the equitable division of the customs duties between the Samoan Government and the Municipality. It hopes that an agreement between the parties concerned may be arrived at on the spot, which would both safeguard the interests respectively involved and carry out the intentions of the Treaty Powers.

Inclosure 2 in No. 315.

Mr. Foster to Herr von Holleben.

Sir, *Department of State, Washington, November 22, 1892.*

BARON VON KETTELER'S Memorandum of the 14th July last, expressing the views of the Imperial Government upon the difference of opinion which has arisen as to the apportionment of the import and export duties in Samoa, has had my careful consideration. On the 2nd instant I also received from the British Chargé d'Affaires a copy of Lord Salisbury's note of the 12th August to Count Hatzfeldt, expressing the views of the British Government upon the same subject.

Section 4 of Article III of the Berlin General Act provides that the Supreme Court of Samoa shall have jurisdiction of all questions arising under its provisions. But its competence to render a decision with respect thereto is believed to be limited to suits or references regularly before it in accordance with the specific provisions of the Act. As a Court it is bound to proceed in accordance with the judicial procedure. Otherwise parties in interest would receive no hearing, and matters of the gravest importance, as in this instance, might be finally settled in proceedings entirely *ex parte*.

This Government, therefore, is disposed to agree with the Imperial Government and with the Government of Great Britain that the opinion of the Chief Justice of Samoa with respect to the revenues, given on the 28th March last, was not rendered in the line of the duty of the Court or in accordance with the terms of the Treaty, and that, being extra-judicial, it ought to be treated as a nullity. The Government of the United States will be pleased to join in any concurrent communication of this view to the Chief Justice or other officials of Samoa, as may be deemed most expedient.

As regards the correct interpretation of section 3 of Article VI of the Treaty, it must be admitted that its language is ambiguous, and that it is not free from doubt whether the import and export duties belong by its terms exclusively to the Samoan Government in accordance with the Chief Justice's latest opinion, or exclusively to the Municipality in accordance with his earlier opinion, or partly to each.

Practically, however, this Government is impressed with the belief that there ought to be some fair division of the revenue between the Government and the Municipality, and that its exclusive assignment to either would be essentially unjust to the other. If the terms of the Treaty should be finally held to require the latter, then, in the opinion of this Government, the Treaty ought to be amended in that regard. But I join in the hope expressed by the Government of Great Britain, that "the contending parties may still be able to arrive at a common understanding upon this point which shall be alike satisfactory to themselves and to the Treaty Powers."

Accept, &c.

(Signed) JOHN W. FOSTER.

No. 316.

Count Hatzfeldt to the Earl of Rosebery.—(*Received December* 30.)

(Translation.)

My Lord, *German Embassy, London, December* 24, 1892.

WITH reference to my note of the 22nd instant, I have the honour to transmit to you herewith, in accordance with my instructions, copy of a report from the Imperial Minister at Washington, with inclosure, on the subject of the Customs Ordinance issued in Samoa by the President of the Municipal Council.

I have, &c.

(Signed) v. HATZFELDT.

Inclosure 1 in No. 316.

Herr von Holleben to Count Caprivi.

(Translation.) *Washington, November* 25, 1892.

ACCORDING to the reply from the United States' Secretary of State dated the 22nd instant, of which a copy is inclosed, the American Government has also received the "Samoa Customs Ordinance, 1892," promulgated in the name of the Chieftain (*sic* in German) of Samoa, with the request that it would agree to render it applicable to United States' citizens resident in Samoa. The United States' Government having, as I have reported fully in my despatch (and inclosure) of to-day's date, come to a decision in the matter of the division of the Customs revenues in Samoa, and having expressed its agreement with our view and that of the British Government, it only remains, according to the Secretary of State (who thinks it unnecessary to take any further action respecting the Customs Ordinance, which has become ineffective in consequence of the agreement arrived at), to notify the refusal of the three Treaty Powers at an early date to the proper Samoan officials.

(Signed) v. HOLLEBEN.

Inclosure 2 in No. 316.

Mr. Foster to Herr von Holleben.

Sir, *Department of State, Washington, November* 22, 1892.

WITH reference to Baron von Ketteler's note of the 13th August last, relative to an Ordinance of the Samoan Government, dated the 25th April, "regulating the collection and arrangement of the revenue of Customs," I have the honour to inform you that this Government has also received copies of this Ordinance from the President of the Municipal Council, with the request that it would "order the necessary steps to be taken for the purpose of rendering applicable the provisions of said Ordinance to the United States' citizens living in Samoa." The Ordinance was apparently issued on account of the opinion of the Chief Justice given on the 28th March last, to the effect that the import and export duties in Samoa belong exclusively to the Samoan Government. Inasmuch as the three Treaty Powers are agreed that that opinion was extrajudicial and ought to be treated as a nullity, and as they will undoubtedly soon make some concurrent expression of that view to the proper Samoan officials, no further action with respect to the Ordinance seems to be necessary at the present time.

Accept, &c.

(Signed) JOHN W. FOSTER.

No. 317.

Sir J. Pauncefote to the Earl of Rosebery.—(*Received December* 30.)

(Telegraphic.) *Washington, December* 29, 1892.

SECRETARY of State informed by German Minister that German Government have no objection to temporary withdrawal of ships from Navigators' Islands, provided that no danger to life and property exists at present, and they agree that each Commander should use his discretion as to removal of his vessel to a less dangerous locality.

Instructions in above sense will be sent to United States' Naval Commander in Samoa.

No. 318.

Admiralty to Foreign Office.—(*Received December* 31.)

Sir, *Admiralty, December* 29, 1892.

I AM commanded by the Lords Commissioners of the Admiralty to transmit, for the information of the Secretary of State for Foreign Affairs, copy of a letter from Her Majesty's Consul at Samoa, dated the 7th November, to the Commander-in-chief on the Australian Station, respecting the state of affairs on that island.

On the receipt of your letter, dated the 13th December, the Commander-in-chief was directed to recall Her Majesty's ship "Ringarooma" from Samoa during the hurricane season, provided there was no danger to life or property.

I am, &c.

(Signed) EVAN MACGREGOR.

Inclosure in No. 318.

Consul Cusack-Smith to Rear-Admiral Bowden-Smith.

Your Excellency, *Samoa, November* 7, 1892.

I HAVE the honour to report the arrival on the 3rd November of Her Majesty's ship "Ringarooma." I understand that she has been sent at the request of the authorities in London.

There is no immediate danger to life and property, nor do I apprehend any.

It would be advisable to withdraw the ship not later than the end of December, owing to the possibility of bad weather in this exposed roadstead.

But I cannot until I hear from the Foreign Office pronounce definitely in favour of her withdrawal before that date.

The German war ship "Bussard" is in harbour. The "Sperber" has left on a cruize to Jaluit and German New Guinea, and should be in Sydney early in January.

The bad season has set in, and the weather is unsettled.

I propose to avail myself of your former kind permission and visit Pago-Pago in the "Ringarooma" when she goes to coal.

I have the honour to convey to your Excellency my thanks for your kind expressions, and my gratitude for your unvarying and kind assistance in many matters since my arrival in Samoa.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 319.

Sir E. Malet to the Earl of Rosebery.—(*Received January* 2, 1893.)

My Lord, *Berlin, December* 28, 1892.

WITH reference to my despatch of the 19th instant, I have the honour to transmit to your Lordship herewith a copy, with a translation, of a note which has been addressed to me by the Imperial Ministry of Foreign Affairs relative to the question of the inspection by the Consuls of the Treaty Powers of the Quarterly Financial Returns of the Government and Municipality of Samoa.

I have, &c.
(Signed) EDWARD B. MALET.

Inclosure in No. 319.

Baron von Marschall to Sir E. Malet.

(Translation.) *Foreign Office, Berlin, December* 25, 1892.

THE Undersigned has the honour to inform his Excellency Sir Edward Malet, in reply to the note of the 19th instant from the British Embassy, that the Imperial Government concur in the view taken by the Government of Great Britain, and have instructed, in consequence, their Consul at Apia to place himself in communication with his English and American colleagues, with the object of presenting the joint demand, in the names of the Treaty Powers, to the President of the Municipality, that the Quarterly Returns of the Finance Administration of the Samoan Government and of the municipal district shall be submitted for inspection by the Consuls.

The Undersigned ventures to take it for granted that Her Britannic Majesty's Government has conferred with the Government of the United States upon this subject in the sense of the note under reply, and avails himself, &c.

(Signed) MARSCHALL.

No. 320.

Consul Cusack-Smith to the Earl of Rosebery.—(*Received January* 5, 1893.)

My Lord, *Samoa, December* 5, 1892.

I HAVE the honour to acknowledge the receipt of your despatch of the 2nd September, relative to the currency question. The currency question in its latest form was reported on in my despatch of the 8th November, 1892.

The German Consul is in close correspondence with the German Government on this question.

The Germans here are furious with Baron Pilsach for having lowered the value of the German coinage to 4 dol. 75 c.

The German Consul appears to recognize the impossibility of fixing a higher value for the German 20-mark gold piece than 4 dol. 76 c., but both he and the chief German traders urge that the British sovereign be taken as equal to the American 5-dollar gold piece.

The American Vice-Consul here has advocated to his Government the exclusion of German silver, fixing the value of the 20-mark German gold piece at 4 dol. 76 c., and making English coin the currency in Samoa.

As your Lordship's instructions refer to a state of affairs which no longer exists, I could not now act upon them, but should an opportunity occur for effecting an amicable settlement of the question in Samoa I will bear in mind your Lordship's directions.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

No. 321.

Consul Cusack-Smith to the Earl of Rosebery.—(*Received January* 5, 1893.)

My Lord, *Samoa, December* 6, 1892.

I HAVE the honour to report that both my colleagues had received instructions relative to the Chief Justice and the survey fees. They were anxious to enter a protest, as the Chief Justice had published in the "Royal Gazette" a Notice relating to the surveys, a copy of which I inclose. As they showed me Sir P. Currie's letters to the German Ambassador dated the 13th September, I felt justified in acting jointly with my colleagues.

Accordingly we, on the 12th November, notified the Chief Justice that the Treaty Powers were in accord in withholding their sanction from his making the registration of land titles conditional in each case on a previous survey of the land, to be made at the expense of those concerned, and that they also withheld their sanction from the fee for registration of title as set forth in the scale of fees in "The Real Property Ordinance, 1891," and we begged him to modify the Notice in the "Royal Gazette."

We hoped in this way to avoid making any public notification, which must be unpleasant for the Chief Justice.

But his answer, dated the 16th November, and his expressed determination to insist upon the surveys, forced my German colleague to notify his nationals that they were not bound by the survey fees and regulations.

In the interests of unanimity, which is so all-important in the actions of the Consuls here, I decided to join in the Notice decided upon by my colleagues, and I inclose a copy of it.

Your Lordship's instructions contained in your despatches received on the 2nd December appear to cover all that I have done.

The Chief Justice must be immediately and without delay instructed by the Powers to obey their decision, as meanwhile applicants for registration of title are kept waiting and may lose opportunities of selling their land to the best advantage.

Cablegram viâ New Zealand is the quickest mode of reaching me, provided the Governor sends on the message by the very earliest steamer, which often is leaving the day the cablegram arrives.

I have, &c.
(Signed) T. B. CUSACK-SMITH.

Inclosure 1 in No. 321.

Extract from "Royal Gazette" of November 7, 1892.

Notice.

UPON publication in the "Royal Gazette" of the decision of the Supreme Court upon a claim to ownership of land it shall be the duty of the person or persons to whom a grant will be issuable, to apply at the office of the Surveyor-General and there deposit such sum to meet the expenses of survey as the Surveyor-General may request according to table of fees or in cases where a complete survey has been made, the expenses for putting the diagram on the grant.

The lands not already surveyed shall, as far as practicable, be surveyed in the same order as the applications have been received and the requisite sums deposited.

Where pieces of land claimed in two or more claims form one block of land one grant will, if possible, be issued for the whole block.

Where the claim is based upon a deed posterior to the Berlin Treaty coming into operation, the claimant is reminded of Article VI, sections 2 (D) and 3 of the said Treaty.

(Signed) C. CEDERCRANTZ, *Chief Justice.*

In the Supreme Court of Mulinuu, November 5, 1892.

Inclosure 2 in No. 321.

The Consuls of the Treaty Powers to M. Cedercrantz.

Sir, *Apia, Samoa, November* 12, 1892.

WE have the honour to inform you that we have received instructions that the three Treaty Powers are in accord in withholding their sanction from your making the registration of land titles conditional in each case on a previous survey of the land to be made at the expense of those concerned, and that they also withhold their sanction from the fee for registration of title as set forth in the scale of fees in the "Real Property Ordinance, 1891."

We beg to request you to modify the Notice concerning surveys of land published by you in the "Royal Gazette" of the 7th November, 1892, in accordance with the decision of the Treaty Powers now communicated to you.

We have, &c.

(Signed) T. B. CUSACK-SMITH, *Her Britannic Majesty's Consul.*
BIERMANN, *Imperial German Consul.*
W. BLACKLOCK, *Vice-Consul-General, United States of America.*

Inclosure 3 in No. 321.

M. Cedercrantz to the Consuls of the Treaty Powers.

Gentlemen, *Mulinuu, November* 16, 1892.

I HAVE the honour to acknowledge the receipt of your letter of the 12th instant, in which you inform me that you have received instructions that the three Treaty Powers are in accord in withholding their sanction from my making the registration of land titles conditional in each case on a previous survey of the land to be made at the expense of those concerned, and that they also withhold their sanction from the fee for registration of title as set forth in the scale of fees in the "Real Property Ordinance, 1891." You also request me to modify the Notice concerning surveys of land published by me in the "Royal Gazette" of the 7th November, 1892, in accordance with the decision of the Treaty Powers thus communicated to me.

In response thereto, I regret to say that I cannot comply with your request. I feel the less justified to do so, since, to judge from your letter, you are not instructed to communicate to me any decision of the Treaty Powers on the matter.

I have, &c.

(Signed) C. CEDERCRANTZ, *Chief Justice.*

Inclosure 4 in No. 321.

Public Notice.

WE hereby give notice that the three Treaty Powers are in accord in withholding their sanction from those sections of the "Real Property Ordinance, 1891," as enacted by the Chief Justice of Samoa, which refer to surveys of land and from the fee for registration of title as set forth in the scale of fees. The above-mentioned portions of the said Ordinance are therefore not binding upon our nationals.

(Signed) T. B. CUSACK-SMITH, *Her Britannic Majesty's Consul.*
BIERMANN, *Kaiserlich Deutscher Consul.*
W. BLACKLOCK, *Vice-Consul-General, United States of America.*

November 29, 1892.

LIBRARY

No. 322.

Consul Cusack-Smith to the Earl of Rosebery.—(*Received January* 5, 1893.)

My Lord, *Samoa, December* 6, 1892.

I HAVE the honour to report that since the arrival of Her Majesty's ship "Ringarooma" her movements have been as follows:—

She arrived on the 3rd November, and on the 12th November left for Pago Pago, where she had arranged to take in her coal from the Union Steam-ship Company's "Upolu." On the 5th November news of war in Tutuila had reached Apia.

On the 7th November Baron Pilsach wrote to me asking me to agree that the "Ringarooma" should take the Chief Justice or himself, some Chiefs and policemen, to Tutuila to arrest the natives who might be found guilty of causing the outbreak. As there were many difficulties in such a course, and as the request did not comply with the joint instructions of the Treaty Powers as to the assistance to be rendered by men-of-war, I, on the 9th November, expressed my regret that my instructions did not permit me to requisition the war-ship for the purpose requested. But I suggested that as the "Upolu" was going to Pago Pago, and as the "Ringarooma" would be lying in that harbour, it was obvious that if the Government officials proceeded in the "Upolu" the opportunity would be a very favourable one.

However, as the Treasury was empty, and the Steam-ship Company's agent would not give credit to the Samoan Government, the proposed expedition fell through. The German Consul also refused to requisition his ship.

On the 11th November the King requested me while I was at Pago Pago to ascertain the cause of the outbreak, and report to him on my return, which I very gladly promised to do.

The inclosed newspaper cutting gives a fairly accurate account of my Report to the King.

Her Majesty's ship "Ringarooma" returned to Apia on the 18th November.

As she had lost a torpedo in Pago Pago Harbour, she returned there on the 19th, arriving again in Apia on the 25th.

On the 25th a party of Manihiki natives had arrived in a boat flying the British flag. They complained to me that the Samoans at Tiavea, in Upolu, had by force of arms stolen one of their two boats on the 24th November, with all its contents.

I immediately proceeded to the Chief Justice, who informed me that the Supreme Court could take no steps to punish the offenders until warrants had been issued in the ordinary way. The Samoan Government could do nothing to help me in the matter.

As the "Ringarooma" was here to protect British life and property, I asked Captain Bourke to convey me to Tiavea, which he did.

I recovered the boat and all the missing property, got the names of the eight offenders, seven of whom agreed to return with me to Apia and give themselves up to justice. The eighth was to follow. I handed over the eight natives to the Supreme Court authorities on my return to Apia.

The trial took place on the 3rd December, and, as the natives had apologized most humbly, and as they had surrendered themselves, I asked the Chief Justice to give them a light sentence.

He, after they had pleaded guilty, sentenced the eight Samoans to six months' imprisonment with hard labour, and to twenty-four lashes each, six to be administered each week during the first month's imprisonment.

The prompt action of the man-of-war has re-established a wholesome respect for British authority. The Samoans are quite out of hand, owing to the feeble inefficiency of the Samoan Government, and no longer respect the life and property of white men in the way they used to do.

I have, &c.

(Signed) T. B. CUSACK-SMITH.

Inclosure in No. 322.

Extract from the "Samoa Weekly Herald" of November 25, 1892.

THE TUTUILA OUTBREAK.—Owing to the visit of Her Majesty's ship "Ringarooma" to Pago Pago, where she had appointed to take in her coals alongside the Union Company's "Upolu," correct information has been received as to the rumours

of war published on the 5th November. As King Malietoa was unable at the moment to arrange to send one of the Government officials to inquire into the rumours, he availed himself of the offer of Her Britannic Majesty's Consul to furnish a Report upon the situation. The British Consul had arranged, as far back as June, to visit Tutuila in Her Majesty's ship "Curaçoa," but was prevented, and his visit on this occasion was in no way connected with the reported disturbance. The "Ringarooma" left Apia on Saturday, the 12th November, and was off the north coast of Tutuila at daybreak on Sunday. As she passed between the mainland and the small Island of Aunuu numbers of natives came down to the shore of Aunuu, and on recognizing the British naval ensign the British commercial red ensign was hoisted over Arthur Young's store.

Soon after arriving in the lovely harbour of Pago Pago, whose shores will, we believe, in the no very distant future be dotted with pretty villas nestling among the foliage of the surrounding hills, it was discovered that a party of natives were lying armed in the church at Fagatogo watching the man-of-war, ready to fire upon her should she interfere with them.

Careful and persistent inquiries revealed the following facts:—

The outbreak was started in October by three Chiefs, Leiato, Mauga Faaneneil and Alo, with whom were other Chiefs, including Faumuina. Leiato, who is in supreme command of this party, is supported by the villages of Pago Pago, Fagasa, and Fagaitua. He has about 500 men under arms, but at least 100 have no rifles, while some have only one cartridge, and no one can boast of more than fifty. Alo had only returned from Malié, where he had been living for four months with his followers in the camp of the rebel Mataafa. Within a month from his return to Pago Pago the disturbances broke out. There is no doubt whatever, from inquiries on the spot, that Mataafa instigated the disturbances, that Leiato's party is really Mataafa's party, and that had no war-ship arrived so inopportunely a few weeks more would have seen Mataafa in Tutuila at the head of the revolt which he intended to carry into Upolu.

Leiato's party being ready, a pretext for the revolt was not difficult to find. Two villages in Pago Pago Bay, Fagatogo and Aua, had conferred the title of Leiato upon a Chief named Togiola, but on being told that this course would lead to fighting they expressed their willingness to take back the title, which they did to secure peace.

But the Mataafa party, led by Leiato, Mauga, and Alo, were not to be baulked of their revolt by a *contretemps* of this sort; and, asserting that Togiola had fled to Aoa (on the north-east coast of Tutuila, and not to be confounded with Aua in the Bay of Pago), they at night, on the 25th October, treacherously surrounded the village, which had maintained a neutral attitude, and had not been concerned in the making of the new Leiato, and killed and decapitated four unoffending men and wounded others. Aoa was burnt and utterly destroyed.

But their thirst for cold-blooded murder was not yet at an end, for on the 28th October the Mataafa party asked the villages of Aua and Fagatogo to come to Pago Pago, a village at the very far end of the long bay, and make friends.

Aua and Fagatogo accordingly started up the bay in their boats, not expecting treachery. But as they neared Pago Pago a heavy fire was opened upon them, two of their men being killed, and several wounded severely, two of whom have since died.

The fusilade is described as coming from both sides of the bay, for at least half-a-mile below Pago Pago, clearly showing that the Mataafa party were posted beforehand, and that the treachery was premeditated.

The Fagatogo and Aua people took to the water, and, pushing their boats before them, they got away in the growing darkness, and that night fled to the little Island of Aunuu, which is now fortified. Here they have been joined by the Aunuu people, and by the homeless inhabitants of Aoa. This, the King's party, numbers about 400 men, all well armed, no one having less than fifty cartridges, while Togiola himself has over 2,000 rounds. This ammunition came from Tamasese's people, who have still plenty to sell. The Government will be greatly to blame if no steps are taken to secure the remainder of the Tamasese ammunition, which may otherwise be sold to the rebels. It is also reported in Tutuila that the King's guards at Mulinuu are not averse to selling their ammunition.

During the fighting on the 28th the Aunuu, or King's party, captured Faumuina, one of the rebel Chiefs, who is closely confined on Aunuu.

The villages of Aua and Fagatogo have been pillaged and utterly destroyed, and the cocoa-nut and bread-fruit trees felled by the Mataafa party.

Letters were sent by Mr. Cusack-Smith to each party, requesting the Chiefs to attend a meeting on the man-of-war, so that both parties might state the facts which

they wished should be reported to the King. The Aunuu, or King's party, replied that they wished to come, but that as the Mataafa party was waiting to attack them in their boats, they were afraid to do so. Leiato replied for his followers to Mr. Foster, who kindly volunteered to carry the letters, that he would not attend the proposed meeting. He displayed much anger at the interference of foreign war-ships in Samoan affairs, and said he was ready to fight the "Ringarooma," if Captain Bourke would fix the day. However, in the morning his proud spirit had calmed, and he sent a party on board to attend the meeting. As the party was not composed of the leading Chiefs, they were promptly and firmly sent over the ship's side. They then begged for a message to take to Leiato, who would, they were now sure, do as he was told. They were informed that Leiato could come or stay as pleased him, but that no messages would be received from or through his subordinates. At 6 A.M. next morning Faivae arrived and begged that he might go from Mr. Cusack-Smith to urge Leiato to attend, as Leiato was now alarmed, and only wanted pressing to insure his attendance. This request was absolutely refused. Leiato had received his last message, and whether he attended or not was entirely a matter for himself. He alone would have to bear the consequences.

Before midday Leiato and more than fifty of his followers had arrived in Pago Pago, and begged for an interview.

The Consul and Captain Bourke proceeded to Pago Pago village at 2 P.M., and had a meeting with Leiato, Mauga, and Alo, who had to confess that it it was by their orders the slaughter had taken place. Alo publicly, but apparently much against his will, owned that he had only returned from Malié a few weeks before the fighting broke out. The Consul then insisted upon a public apology for the disloyal language used by the three Chiefs at this meeting against the King, and a full apology was made, as also to Captain Bourke for the childish threats to the war-ship. The three Chiefs were then required to promise that until the decision of the King could be received they would abstain from any further attack upon the Aunuu party, a like promise being subsequently received in writing from the Aunuu party.

In token of their apology for the words used against the "Ringarooma," the three Chiefs then begged to be allowed to bring the customary "alofa" on board, which they did, only remaining a few minutes, so great was their fear of being seized and imprisoned.

A full report was verbally made to the King by Mr. Cusack-Smith on his return from Tutuila.

Unless vigorous steps are taken by the Samoan Government the fighting will break out again almost immediately, and there is every sign that Mataafa had arranged similar outbreaks in other parts of Samoa. Prompt, firm, just, and unflinching action can alone be successful in dealing with all native affairs.

Her Majesty's ship "Ringarooma" arrived from Tutuila yesterday, at 2 P.M., and brings news that up to the time of her leaving Pago Pago both parties had kept the promise given to the British Consul not to begin further fighting.

No. 323.

Mr. B. Haggard to the Earl of Rosebery.—(*Received January* 5, 1893.)

My Lord, *Apia, Samoa, December* 6, 1892.

I HAVE the honour to inform you that up to date the Samoan Land Commissioners have respectively heard, examined, and made reports upon in all 1,503 "claims." Of that number, 558 were disputed and contested cases. Upon examining and adjudicating on the claims, I find that they appear to fall almost evenly into three classes, about one-third being undisputed, about one-third disputed, and about one-third having to be rejected from their own inherent vice, as inadmissible under the sections and sub-sections of Article IV of the Berlin Final Act, apart from the question whether they would or would not be contested at a hearing.

This flaw is at once patent to the Commissioners on examining the claims and deeds, but it does not preclude the necessity of a report. My Lord, it has indirectly been brought to my notice that it was supposed we had reversed our original decisions in some sixty cases, and exception was taken to it. I think I ought to respectfully

assure your Lordship that we have not done so. We have reversed no decision we have made when finally reported upon. In a group of sixty cases before the date of lodging the objection was reached, thinking they would be undisputed, as we were then informed, we examined the claims and deeds; we did this in order to keep our work forward, and avoid delay and waste of time. All these cases had eventually objections lodged against them, and had to be heard, but the same decision was arrived at, and the same reports remained. I am happy to be able to say that perfect unanimity of opinion as yet obtains with the Commissioners: 1,501 unanimous decisions have been given.

I have, &c.
(Signed) BAZETT M. HAGGARD.

No. 324.

M. Cedercrantz to the Earl of Rosebery.—(*Received January* 6, 1893.)

My Lord, *Mulinuu, Samoa, November* 29, 1892.

I BEG leave with the greatest respect to address your Lordship in reference to two communications recently received by me, one from the Imperial German Consul, and the other from the Consular Representatives of the three Treaty Powers, copies of which, together with my answers thereto and a notice therein referred to, I have the honour to inclose.

From these communications your Lordship will be pleased to find that they refer to a matter connected with the work prescribed in the Final Act of the Conference of Berlin on Samoan affairs for the settlement of claims by foreigners to land in Samoa. Under Article IV of the said Act all such claims shall be dealt with—first, by a Special Commission, and, finally, by the Supreme Court of Samoa, which Court, under section 7 of the same Article, shall also make provision for a complete registry of all valid titles to land in Samoa which are or may be owned by foreigners. In pursuance of the duty thus imposed upon me as Judge of the Supreme Court, I have—last year—issued such provision embodied in an Ordinance styled "The Real Property Ordinance, 1891." Under said Ordinance the document to be issued by the Court to certify the validity of a title shall contain a diagram of the land, and be registered as further directed in the Ordinance, which also includes a table of fees payable for the performance of the several acts therein provided for.

The first document of the nature had just been registered under the provisions of the Ordinance when I received the letter where the Imperial German Consul on behalf of his Government protests against the application of survey as far as German subjects are concerned. As that letter only dealt with the question of the need for survey, and as I have not, after careful examination and consideration of all the circumstances connected with lands in Samoa, entertained a moment's doubt as to the necessity of survey for arriving at a satisfactory settlement of the land question, I could not but reply as per the inclosed letter. At that time I had no idea that my authority to issue the said provisions was questioned. Not even the letter of the three Consuls could convey to me such idea, but through private information I am given to understand that, in the opinion of the Powers, I have been acting *ultra vires* in enacting the Ordinance referred to. If such be the case, the whole question must naturally present itself to me in an entirely different light, and I therefore beg to avail myself of this first opportunity to lay before the Governments the views that have been guiding me in the matter, and to ascertain if there exist any reasons overlooked by me to show that I have been mistaken.

I have been fully aware of the rights with regard to the Samoan legislation which the Powers have acquired by Treaties with Samoa, and that the maintenance of the said Treaties was one of the bases of negotiation of the Conference of Berlin. The reason why, notwithstanding, I have ventured to exercise a certain portion of the said legislation is that I have been under the impression that by the Final Act such portion has been transferred to the Supreme Court. In support of my opinion in this respect, I beg leave most respectfully to draw your Lordship's attention first to Article IV, section 7, which renders it the duty of the Court to make provision for a complete registry of all valid titles to land. It is the Court that shall make the provision, and I submit, with the greatest deference, that there is nothing in the Act to make me think that such provision should be subject to sanction of any other authority.

Amongst the systems of registration known to me I had little hesitation in adopting the system in force in the Australian Colonies, in New Zealand, and in Fiji. It had proved eminently successful under circumstances similar to those here at present, and, moreover, such a course seemed to me specially desirable considering the provisions of Article III, section 10. This is the second provision which I beg leave to submit to your Lordship's consideration in support of my views. I have understood "practice and procedure" in this section to include both law of procedure and substantive law, that, consequently, in all civil matters within the jurisdiction of the Court English law might be administered as far as applicable, but that the Court was authorized to use its discretion in reference to the applicability of the different provisions of the law and, consequently, within the limits of its jurisdiction to exercise a discretionary legislative power. For this reason, and whereas under Article III, section 9, all civil suits concerning real property in Samoa are within the exclusive jurisdiction of the Court, I did not hesitate to insert in the Real Property Ordinance a few other provisions concerning land not directly connected with the system of registration, but similar to those adopted within the British dominions in this part of the world, in the history of which there have been no such features as have led up to the tenure of land in England, and where, consequently, the laws of England in this respect have not been regarded as applicable. Considering the provisions of Article IV, section 7, and Article III, section 10, now referred to, what could I better do in issuing provision for registration of land titles, and laying down a few principles as to the tenure, than to modify the laws of England with regard to Samoa exactly in the same way as Her Britannic Majesty's Government itself has found necessary to do under the same circumstances as exist here at present?

I have heard an opinion expressed to the effect that "practice and procedure" in section 10 refer only to the Law of Procedure, but I cannot share this view. In such case there would be no provision in the Act as to the substantive law to be administered by the Court in civil cases. Such law should then, I understand, have to be enacted by the Samoan Government, subject to the confirmation provided for in separate Treaties, and until a code of laws should have been established in such manner I hardly see how the Court would be able to begin its Civil jurisdiction. And there would not even be any initiative left to the Court in questions of such legislation as the wording of Article III, section 8, hardly applies to general civil legislation. Furthermore, I think that that portion of the Protocols of the Conference at Berlin containing the deliberation of the Conference upon this subject cannot leave any doubt that the intention of the Conference was to provide in section 10 for substantive law, as well as for Law of Procedure.

But there is yet a third provision of the Final Act to which I most respectfully beg to call your Lordship's attention in connection with this matter, as it more especially applies to the registration fee mentioned in the letter of the Consular Representatives. I refer to the last clause of Article III, section 1, that the Clerk and Marshal of the Supreme Court shall be allowed reasonable fees, to be regulated by order of the Court. I have understood the meaning of the Act to be that the Court should be responsible for the carrying out of the provisions concerning the registration of land titles, and in the above-mentioned Ordinance I therefore have made the Registration Office a part of the Court, and the Clerk of the Court Registrar of Titles. When acting in such capacity he is always acting as an officer of the Court, and I submit that under the section just referred to the Court has the right of allowing him reasonable fees for the acts performed by him in said capacity, and that the fee in question cannot be objected to on other grounds than on that of its being unreasonable. In this respect I beg leave to mention that the fee has been fixed at the same amount as is provided for the same kind of registration in Fiji, New Zealand, and Victoria, and, I believe, also in the other Australian Colonies.

In view of this fact only, it seems to me that it cannot possibly be said to be unreasonable, more especially as the money value here is far less, and the cost of living far greater, than in the said Colonies.

I know that many misrepresentations are made on this matter, and I can only hope that none of them have reached your Lordship. The fact is that the said fee is the only one which will be charged for the work done in the Court in all cases where claims to ownership are finally recognized, except in such where rehearing must take place, and I have every reason to believe that those will be very few. Moreover, I have issued a provision to the effect that where pieces of land claimed in two or more claims form one block of land, one grant will, if possible, be issued for the whole block, and this will, in a great many cases, result in one grant disposing of two, three, thirty,

perhaps 200, or still more claims; and for all these claims there will be only one registration fee. For all rejected and withdrawn claims there are no charges.

I cannot admit that the fee is unreasonable, but I shall not take up your Lordship's time by further arguments, as I trust that if your Lordship should have some hesitation in the matter I shall be allowed to know and reply to the representations which in such respect may be or have been made to your Lordship.

I have had the honour to lay before your Lordship some of the reasons which have moved me to exercise the legislation in question. I have by no means been anxious to usurp an authority not belonging to me, and to take over all the corresponding responsibility. I have simply acted under the opinion that by the Final Act there was a duty imposed upon me which I had to fulfil to the best of my understanding. And I have not found anything to make me understand that the Contracting Powers, when imposing upon the Court the said duty, have retained the right to sanction the steps taken by the Court under such duty any more than to sanction the decisions given by the Court in civil or criminal cases within its jurisdiction.

Although no communication upon the subject has been made to me from the three Powers, still, for reasons already stated, I regard it my duty to lay at once the matter before the Governments in order to avoid further delay and mistakes. Either I have the authority spoken of and shall alone be held responsible for the work done under such authority, and then I also must claim the right to make such arrangements as, in my opinion, can alone secure a satisfactory result, or I have not the said authority which in such case has to be exercised in some other way not yet made known to me. The inclosed letters from the Consuls give me no information in this regard, nor any reasons why I have been wrong, and therefore I feel obliged with the greatest respect to ask the views of the three Powers on the subject.

Identical letters are by this mail forwarded to the Secretary of State, John W. Foster, and the Reichs Chancellor, Count von Caprivi.

I have, &c.

(Signed) C. CEDERCRANTZ,
Chief Justice of Samoa.

P.S.—Since writing the above my attention has been drawn to a Notice inserted in the local newspapers by the Consular Representatives of the three Powers, copy of which I beg to inclose. From the said Notice I learn, with a great deal of surprise, that the Consuls not only have felt called upon to decide the question hereinbefore submitted to the consideration of the three Governments by declaring that certain provisions issued by me are not binding upon their nationals, but also have thought fit to inform the public of such a decision so closely concerning my office without previously giving me any information thereof. This is the more striking to me as, so far as I am aware, Her Britannic Majesty's and the United States' Consular Representatives have not as yet received any instructions to communicate to me their respective Governments' views on the matter, which, I most respectfully submit, ought to have preceded such Notice to the public. I readily admit that such a step might be justified in cases where there could be some imminent danger of the lawful rights of the subjects of the Treaty Powers being isolated, but after the explanations given hereinbefore, also showing that no compulsory steps are intended from my side, the present situation cannot reasonably be looked upon in such a light. Moreover, I cannot see that the Notice of the Consuls has benefited their nationals in any way. The action taken by the Consuls is not warranted by the circumstances, and its only effect will be to impair the authority of my office, promote distrust of the arrangement of the Berlin Conference, and create confusion.

C. C.

Inclosure 1 in No. 324.

Herr von Biermann to M. Cedercrantz.

(Translation.) *Imperial German Consulate for the South Sea Islands,*
Sir, *Apia, October* 4, 1892.

I AM instructed by my Government to inform you that, considering the local circumstances, they cannot admit that there is any necessity for proceeding to the survey of the land proposed by you for the purposes of registration. The Imperial Government is of opinion that such a course would lead to unnecessary delays in the

settlement of the Land question, besides involving the persons interested in considerable expense.

The Imperial Government is therefore unable to assent to this measure, and, in accordance with my instructions, I hereby protest against its application to German subjects.

I have, &c.
(Signed) BIERMANN,
Imperial German Consul.

Inclosure 2 in No. 324.

M. Cedercrantz to Herr von Biermann.

Sir, *Mulinuu, October* 14, 1892.

I HAVE the honour to acknowledge the receipt of your letter of the 4th instant, in which you, in pursuance of instructions from the Imperial German Government, inform me that the Imperial Government, in view of the local circumstances, is unable to recognize the need for survey of the lands which have to be recorded in the Register of Land Titles, the Imperial Government being of opinion that the adjustment of the Land question would thereby be unnecessarily delayed, and that irrespectively thereof the claimants would incur unreasonable costs. You further inform me that the Imperial Government is therefore not able to consent to this measure, and, in accordance with your instructions, you protest against the application of such measures as far as German subjects are concerned.

In reply thereto, I beg leave most respectfully to draw the attention of the Imperial Government to Section 7 of Article IV of the Final Act of the Conference of Berlin on Samoan affairs, providing that the Supreme Court of Samoa shall make provision for a complete registry of all valid titles to land in Samoa, which are or may be owned by foreigners.

Upon investigation with a view to exercise the power and authority thus vested in me as Judge of the Supreme Court of Samoa, of the local circumstances of this country, I soon came to the conclusion that a satisfactory adjustment of the Land question would be impossible without survey, and I adopted as far as practicable a system for the registration of land titles, which has proved eminently successful in the British Colony of Fiji, a country in which the local circumstances at the time of the adjustment of the Land question, offered the greatest resemblance to the present circumstances in Samoa. While admitting the remarks of the Imperial Government that some delay may therefrom ensue, and that some costs may be incurred by the claimants, I venture most respectfully to submit that the delay will not be unnecessary, and the costs not unreasonable, inasmuch as, according to my opinion, survey is indispensable, and that in a great many cases where, as I have ascertained, survey has been previously performed by competent land surveyors, the delay and the costs will be quite inconsiderable. I also beg to inform the Imperial Government that I have made provisions for issuing certificates, which in cases where some delay will be unavoidable on account of the survey, will enable the landowners to deal with their lands already before the beginning of the survey.

I note with sincere regret that the Imperial Government is not able to consent to the provision in question enacted by me in virtue of, and in exercise of a duty imposed upon me by the Berlin Treaty, but for reasons hereinbefore submitted, I regret not to be able to take the responsibility of annulling the said provision, nor do I feel justified in excluding subjects of the Imperial Government from the application thereof.

I have, &c.
(Signed) C. CEDERCRANTZ,
Chief Justice of Samoa.
(L.S.)

Inclosure 3 in No. 324.

The Consuls of the Treaty Powers to M. Cedercrantz, November 12, 1892.

[See Inclosure 2 in No. 321.]

Inclosure 4 in No. 324.

M. Cedercrantz to the Consuls of the Treaty Powers, November 16, 1892.

[See Inclosure 3 in No. 321.]

Inclosure 5 in No. 324.

Extract from "Royal Gazette" of November 7, 1892.

[See Inclosure 1 in No. 321.]

Inclosure 6 in No. 324.

Public Notice, November 29, 1892.

[See Inclosure 4 in No. 321.]

No. 325.

Foreign Office to Consul Cusack-Smith.

(Telegraphic.) *Foreign Office, January* 7, 1893.

WITH reference to your despatch of the 21st October last, and to previous correspondence, Her Majesty's Government authorize you to concert with your American and German colleagues in addressing a formal demand to Baron Pilsach, in the name of the Treaty Powers, requesting that he will submit, for the inspection of the Consular Board, the quarterly financial Reports both of the Samoan Government and of the Apia Municipality.

No. 326.

The Earl of Rosebery to Sir J. Pauncefote.

Sir, *Foreign Office, January* 9, 1893.

WITH reference to my despatch of the 17th ultimo, I transmit to you herewith, for communication to the United States' Government, copy of a despatch from Her Majesty's Ambassador at Berlin,* conveying the concurrence of the German Government in the proposed instruction to the Consuls of the three Powers in Samoa respecting the production, for their inspection, of the quarterly Financial Returns of the Samoan Government and Apia Municipality; and I inclose also a paraphrase of the telegraphic instruction upon the subject which has, in consequence, been sent to Her Majesty's Consul in Samoa.†

I am, &c.
(Signed) ROSEBERY.

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* No. 319. † No. 325.

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No. 327.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, January* 10, 1893.

I AM directed by the Earl of Rosebery to convey to you his approval of your proceedings in connection with the movements of Her Majesty's ship "Ringarooma" in the Navigators' Islands, as reported in your despatch of the 6th ultimo.

I am, &c.
(Signed) T. H. SANDERSON.

No. 328.

Foreign Office to Consul Cusack-Smith.

Sir, *Foreign Office, January* 10, 1893.

I AM directed by the Earl of Rosebery to acknowledge the receipt of your despatch of the 6th ultimo, reporting that, in conjunction with your German and American colleagues, you had notified to the Chief Justice of Samoa that the Treaty Powers withhold their sanction from his decisions that a previous survey of the land and the payment of a fee of 5 dollars are obligatory in each case on the registration of land titles in the Navigators' Islands.

I am to convey to you his Lordship's approval of your proceedings in the matter.

I am, &c.
(Signed) T. H. SANDERSON.

No. 329.

Sir J. Pauncefote to the Earl of Rosebery.—(Received January 31.)

My Lord, *Washington, January* 17, 1893.

ON the receipt of your Lordship's despatch of the 17th ultimo, on the subject of Samoa, I addressed a note to the Secretary of State, as therein instructed, stating that Her Majesty's Consul at Apia had reported that Baron Senfft von Pilsach declines to furnish the Consuls of the Treaty Powers with copies of his Quarterly Financial Reports unless he receives a joint instruction from the Powers to do so, and I added that I was instructed by your Lordship to propose to the United States' Government that joint action should be taken with this object.

I have now the honour to report that I have received a reply from Mr. Foster, in which he states that the United States' Government has not yet received a report from its Consul with reference to this matter, but that it heartily concurs in the proposal of Her Majesty's Government, and that he will at once instruct the American Consul at Apia accordingly.

I telegraphed the substance of Mr. Foster's reply to your Lordship to-day.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

No. 330.

Mr. B. Haggard to the Earl of Rosebery.—(Received February 2.)

My Lord, *Apia, Samoa, January* 3, 1893.

I HAVE the honour to inform you that the Commissioners have examined, heard, and reported up to the 24th December, 1892, as many as 1,618 cases or claims, of which number 1,616 have been decided unanimously by the Commissioners.

I regret to say that our colleague the United States' Land Commissioner told us yesterday (2nd January) that he had sent in his resignation to his Government a month back.

I do not gather that he has any intention of leaving Apia and his duties before his successor arrives.

I have, &c.
(Signed) BAZETT M. HAGGARD,
Her Majesty's Land Commissioner for Samoa.